Proposed Rules

Federal Register
Vol. 60, No. 226
Friday, November 24, 1995

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 52

[FV–91–329]

United States Standards for Grades of Frozen Cauliflower

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This proposed rule would revise the current voluntary U.S. Standards for Grades of Frozen Cauliflower. Its effect would be to improve the standards by: Bringing the standards in line with current marketing practices and innovations in processing techniques; providing for the ''individual attributes'' procedure for product grading with sample sizes, acceptable quality levels (AQL's), tolerances and acceptance numbers (number of allowable defects) being published in the standards; replacing dual grade nomenclature with single letter grade designations, such as ''U.S. Grade A'' or ''U.S. Fancy,'' with ''U.S. Grade A;'' and providing a uniform format consistent with other recently revised U.S. grade standards by adopting definitions for terms and replacing textual descriptions with easy-to-read tables. This rule also includes conforming and editorial changes.

DATES: Comments must be received on or before January 23, 1996.

ADDRESSES: Interested persons are invited to submit written comments concerning this proposal. Comments must be sent in duplicate to the Office of the Branch Chief, Processed Products Branch, Fruit and Vegetable Division, Agricultural Marketing Service, U.S. Department of Agriculture, PO Box 96456, Room 0709, South Building, Washington, DC 20090–6456. Comments should make reference to the date and page number of this issue of the Federal Register and will be made available for public inspection in the Office of the Branch Chief during regular business hours.

FOR FURTHER INFORMATION CONTACT: James R. Rodeheaver, Processed Products Branch, Fruit and Vegetable Division, Agricultural Marketing Service, U.S. Department of Agriculture, PO Box 96456, Room 0709, South Building, Washington, DC 20090–6456, Telephone: (202) 720–4693.

SUPPLEMENTARY INFORMATION: The Department is issuing this rule in conformance with Executive Order 12866.

Pursuant to the requirements set forth in the Regulatory Flexibility Act, Pub.L. 96–354 (5 U.S.C. 601 *et seq.*), the Administrator, Agricultural Marketing Service, has certified that this action will not have a significant economic impact on a substantial number of small entities. It will not result in an annual effect on the economy of $100 million or more. There will be no major increase in cost or prices for consumers; individual industries, Federal, State, or local government agencies; or geographic regions. It will not result in significant effects on competition, employment, investments, productivity, innovations, or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets. In addition, under the Agricultural Marketing Act of 1946, the use of these standards is voluntary. A small entity may avoid incurring any additional economic impact by not employing the standards.

This proposed rule has been reviewed under Executive Order 12778, Civil Justice Reform. This action is not intended to have retroactive effect. This proposed rule will not preempt any State or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule. There are no administrative procedures which must be exhausted prior to any judicial challenge to the provisions of this rule.

Agencies periodically review existing regulations. An objective of the regulatory review is to ensure that the grade standards are serving their intended purpose, the language is clear, and the standards are consistent with AMS policy and authority.

The Western Technical Advisory Committee of the American Frozen Food Institute (AFFI) and the USDA Grade Standards Review Subcommittee of the National Food Processors Association (NFPA), requested that the USDA prepare a draft revision of the U.S. grade standards for frozen cauliflower in 1992. It was requested that the draft would allow for the use of mechanical trimming devices in cauliflower processing by de-emphasizing the importance of uniform shape and symmetry of cauliflower clusters in the standards because mechanical trimmers now perform processing operations previously done by hand. The mechanical trimming devices produce clusters which are less uniform in size, shape, and symmetry and remove, partially or completely, the bud portion of the unit. The absence of a uniform shape does not significantly affect the eating quality or nutritional value of frozen cauliflower.

It was also requested that the revised standards assign individual tolerances to each individual quality factor. The system of grading, referred to as ''individual attributes,'' would provide statistically derived acceptable quality levels (AQL's) based on the tolerances in the current grade standards.

The discussion draft incorporated the changes recommended by AFFI and NFPA. The proposal reflected USDA's policy of replacing dual grade nomenclature with single letter grade designations.

In the revision, ''U.S. Grade A'' (or ''U.S. Fancy'') and ''U.S. Grade B'' (or ''U.S. Extra Standard'') would have simply become ''U.S. Grade A,'' and ''U.S. Grade B.''

The USDA prepared a discussion draft, incorporating the requested and editorial changes, and submitted it to AFFI and NFPA for comment. Minor changes were recommended for the draft revision.

In addition to these changes, the revision would have modified the standards to present them in a simplified easy-to-use format. Consistent with recent revisions of other U.S. grade standards, definitions of terms and easy-to-read tables would have replaced the textual descriptions. These changes were intended to facilitate better understanding and more uniform application of the grade standards.

Proposed Rule

A proposal to revise the U.S. Standards for Grades of Frozen Cauliflower was published in the

Federal Register on January 11, 1993 (58 FR 3816). A reopening and extension of the comment period to December 31, 1993, for the proposal was published in the Federal Register on May 25, 1993 (58 FR 29985). There were no public comments received during the comment period. However, USDA received comments from Patterson Frozen Foods, Inc. and the American Frozen Food Institute (AFFI) regarding the proposal, after the comment period closed. This action is a reproposal of the January 11, 1993, rule.

The following suggestions were offered for consideration in this revision. The two commenters suggested that the style name ''Nuggets or Small Clusters'' should be used instead of ''Clusters for Limited Use'' due to the terms familiarity in the industry and the marketplace. USDA agrees with the comment to change in style names to incorporate familiar names.

Both commenting parties requested a change in the proposed method of determining style in frozen cauliflower and the requirements. Both agreed that the method for determining style should be based on ''weight'' instead of ''count'' and Patterson Frozen Foods also suggested that the six millimeter minimum requirement for ''Nuggets or Small Clusters'' style be removed since there is no maximum size requirement for ''Clusters'' style.

Both parties suggested that determining ''style'' by ''weight'' instead of by ''count'' would make the standards more compatible with the industry's practice of using mechanical trimming devices which produce clusters that are less uniform in size, shape, and symmetry.

USDA conducted a study using imported and domestic samples in 10, 16, 20, 32 and 35 ounce package sizes to determine the average counts and weights of cauliflower clusters. Based on the information collected, USDA agrees with the suggested change to determine style ''by weight'' instead of ''by count'' for ''Clusters Style'' and with the recommended tolerance of 10 percent by weight.

The Department disagrees with the elimination of the minimum size requirement in ''Nuggets or Small Clusters'' style. The prerequisite of ''appearance'' was incorporated into this proposal to maintain present tolerances for small pieces of cauliflower (chaff) that affect the appearance and edibility of ''Nuggets or Small Clusters'' and ''Clusters'' style cauliflower. A definition for ''chaff'' was also incorporated into this proposal.

The study conducted by USDA showed that the average unit weight of ''Nuggets or Small Clusters'' was closer to two grams per unit than to three grams per unit as published in the proposal. The AQL's and acceptance numbers in Table II were adjusted to reflect this finding.

AFFI and Patterson Frozen Foods asked that the definitions for ''ricey'' and ''fuzzy'' character in the current standards be retained in the proposal. USDA agrees that maintaining the same definitions for ''ricey'' and ''fuzzy'' would reduce confusion within the industry. It was also requested that the term ''mushy'' character should be deleted and that its definition be incorporated into the definition for ''soft'' character. The industry believed this change would be less confusing and more accurate. The Department agrees and made these changes to clarify the standards based on industry practices.

A change in the definition of ''color defect'' was recommended by the commenters.

It was suggested that a definition differentiating ''minor'' and ''major'' color defects based on existing USDA inspection criteria should be incorporated into the ''color defect'' definition of the proposal. USDA agrees with this change and has incorporated it into the proposal. The incorporated changes from the inspection criteria would more accurately reflect the method used in the food industry to evaluate color defects.

Minor changes were suggested for the definitions of the terms ''blemished, fragments, and mechanical damage'' to help clarify their meaning. Both parties suggested the term ''discoloration'' should be removed from the definition of ''blemished,'' and the phrase, ''in the aggregate,'' should be added to the ''minor blemished and major blemished'' definition.

AFFI and Patterson Frozen Foods also suggested that the words ''tough or fibrous'' should be added to the definition of ''fragments'' and the words ''seriously'' and ''excessive or'' should be deleted from the definition of ''mechanical damage.''

The Department agrees with these changes and has incorporated them into this proposal.

It was requested that the classified quality factor, ''mushy character,'' should be deleted from the standards since its definition has been incorporated into the definition of ''soft character.'' The USDA has deleted the classified quality factor for ''mushy character'' and adjusted the tolerance for the quality factor, ''soft character'' to reflect the change.

Changes in the tolerances of several ''classified quality factors'' were suggested. For the quality factor of ''ricey character,'' tolerances of 15 percent for ''Grade A'' and 30 percent for ''Grade B'' were preferred by AFFI and Patterson Frozen Foods because this defect is more common and less objectionable.

For ''soft character'', a tolerance of 5 percent rather than 10 percent was preferred because it is more preventable and more objectionable. The Department has adjusted the tolerances for ''soft character'' and ''ricey character'' and incorporated them into this proposal.

It was suggested that the quality factor of ''color defect'' be divided into ''major color defects'' and ''total color defects.'' The comments suggested tolerances for the new factors should reflect this change with 3 percent for ''major'' and 8 percent for ''total.'' We agree with the changes in the quality factor for color defects and with the 8 percent tolerance for ''total color defects.'' We do not agree, however, with the change in the tolerance for ''major color defects.'' Such a change would represent a significant deviation from the tolerance in the existing U.S. Standards for Grades of Frozen Cauliflower without valid justification as to why it should be changed.

It was also suggested that the tolerance for mechanical damage, in Nuggets style, should be increased to 10 percent for ''Grade A'' and 20 percent for ''Grade B'' to better reflect the use of mechanical trimming devices.

The Department agrees with this change and has incorporated it in this revision.

A copy of the initial proposed rule was provided to the Agricultural Research Service (ARS) for help in identifying studies, data collection or other information relevant to the possible effect of the proposed revision on pesticide use. ARS reported that they were unable to find much information on the subject. The information that was found by ARS proved not to be relevant.

The changes and issues raised by the comments regarding the first proposed rule supports publishing another Notice of Proposed Rulemaking to modify the standards. Based on all the information received, this proposed revision would modify the standards to present them in a simplified easy-to-use format. Consistent with recent revisions of other U.S. grade standards, definitions of terms and easy-to-read tables would replace the textual descriptions. This proposed rule is intended to facilitate better understanding and more uniform application of the grade standards.

List of Subjects in 7 CFR Part 52

Food grades and standards, Food labeling, Frozen foods, Fruit juices, Fruits, Reporting and record keeping requirements, Vegetables.

For the reasons set forth in the preamble, the U.S. Department of Agriculture proposes to revise 7 CFR part 52 to read as follows:

PART 52—PROCESSED FRUITS AND VEGETABLES, PROCESSED PRODUCTS THEREOF, AND CERTAIN OTHER PROCESSED FOOD PRODUCTS

1. The authority citation for part 52 continues to read as follows:

Authority: 7 U.S.C. 1622, 1624.

2. In part 52, Subpart—United States Standards for Grades of Frozen Cauliflower is revised to read as follows:

Subpart—United States Standards for Grades of Frozen Cauliflower

Sec.

52.721 Product description.
52.722 Styles.
52.723 Requirements for style.
52.724 Definitions of terms.
52.725 Grades.
52.726 Factors of quality.
52.727 Requirements for quality factors.
52.728 Sample size.
52.729 Acceptance criteria.

Subpart—United States Standards for Grades of Frozen Cauliflower

§ 52.721 Product description.

Frozen cauliflower is prepared from fresh flower heads of the cauliflower plant (*Brassica oleracea botrytis*) by trimming, washing, and blanching and is frozen and maintained at temperatures necessary for preservation of the product.

§ 52.722 Styles.

(a) *Clusters* mean individual segments of trimmed and cored cauliflower heads, which measure not less than 20 mm (0.75 in) in the greatest dimension across the top of the unit.

(b) *Nuggets or Small Clusters* mean individual segments of trimmed and cored cauliflower heads, which measure from 6 mm (0.25 in) to less than 20 mm (0.75 in) in the greatest dimension across the top of the unit.

§ 52.723 Requirements for style.

(a) *Clusters style.* A maximum of 10%, by weight, of clusters less than 20 mm (0.75 in) in the greatest dimension across the top of the unit are allowed.

(b) *Nuggets style.* A maximum of 20%, by weight, of clusters, 20 mm (0.75 in) or greater, and a maximum of 10%, by weight, of clusters less than 6 mm (0.25 in) in the greatest dimension across the top of the unit are allowed.

§ 52.724 Definitions of terms.

(a) *Acceptable quality level* (AQL) means the maximum percent of defective units or the maximum number of defects per hundred units of product that, for the purpose of acceptance sampling, can be considered satisfactory as a process average.

(b) *Appearance. Good appearance* means that the overall appearance or edibility of the cauliflower is not materially affected and; for clusters style, a maximum of 5%, by weight, of chaff is allowed for the sample unit. For nuggets style, a maximum of 10%, by weight, of chaff is allowed for the sample unit.

(c) *Blemished* means the cluster is affected or damaged by pathological injury, insect injury, or any other injury, which singly or in combination, affects the appearance or eating quality of the unit.

(1) *Minor blemished* means a unit with a dark blemish(s), which in the aggregate, exceeds the area of a circle 4 mm (0.16 in) in diameter but not 6 mm (0.25 in) or a light blemish(s), which in the aggregate, exceeds the area of a circle 6 mm (0.25 in) in diameter.

(2) *Major blemished* means a unit with a dark blemish(s), which in the aggregate, exceeds the area of a circle 6 mm (0.25 in) in diameter.

(d) *Chaff* mean individual segments of trimmed and cored cauliflower material, with and without head material, which measure less than 6 mm (0.25 in) in its greatest dimension.

(e) *Character* means the extent of firmness and compactness of the cluster and its degree of freedom from fuzzy, ricey and soft units.

(1) *Fuzzy character* means a cluster with sections of head that have elongated individual flowers (or pedicels) that result in a very fuzzy appearance.

(2) *Ricey character* means a cluster with sections of head on which the ultimate branches have become elongated, causing the flower clusters to separate and present a loose or open and sometimes granular appearance.

(3) *Soft character* means a cluster that is limp and flabby and the flesh yields readily when handled.

(f) *Color defect.*

(1) *Minor* means that after cooking, the cluster possesses a color that is more than slightly darker than light cream to dark cream.

(2) *Major* means that after cooking, the cluster possesses a color that is seriously darkened or discolored.

(g) *Core material* means the loose or attached center portion of the cauliflower head which is tough or fibrous.

(h) *Defect* means any nonconformance of a unit(s) of product from a specified requirement of a single quality characteristic.

(i) *Fragment* means a stem or other cauliflower material without head material that is 6 mm (0.25 in) or greater in the greatest dimension (excluding tough or fibrous core material, loose leaves, and chaff).

(j) *Loose leaves* mean leaf material, exclusive of small tender leaves, that are detached from the stem.

(k) *Mechanical damage* means that the appearance of the unit is affected by trimming, or the unit is crushed or broken to the extent that the appearance is materially affected.

(l) *Normal flavor and odor* means that the cauliflower, before and after cooking, has a flavor and odor that is normal and is free from objectionable flavors and odors.

(m) *Sample unit* means the amount of product specified to be used for grading. For varietal characteristics, flavor and odor and appearance, a sample unit is the entire container. For blemishes, character, color, core material, fragments, mechanical damage and loose leaves, a sample unit is 100 grams for Nuggets Style and 50 units for Clusters Style. It may be:

(1) The entire contents of a container;

(2) A portion of the contents of a container; or

(3) A combination of the contents of two or more containers.

(n) *Tolerance* (TOL.) means the percentage of defective units allowed for each quality factor for a specific sample size.

(o) *Unit* means one cluster or piece of cauliflower.

§ 52.725 Grades.

(a) *U.S. Grade A* is the quality of frozen cauliflower that meets the following prerequisites in which the cauliflower:

(1) Has similar varietal characteristics,

(2) Has a normal flavor and odor, and

(3) Has a good appearance.

(4) Is within the limits for defects as specified in Tables I and II, of this subpart, as applicable for the style in § 52.727.

(b) *U.S. Grade B* is the quality of frozen cauliflower that meets the following prerequisites in which the cauliflower:

(1) Has similar varietal characteristics,

(2) Has a normal flavor and odor, and

(3) Has a good appearance.

(4) Is within the limits for defects as specified in Tables I and II, of this subpart as applicable for the style in § 52.727.

(c) *Substandard* is the quality of frozen cauliflower that fails to meet the requirements of U.S. Grade B.

§ 52.726 Factors of quality.

The grade of frozen cauliflower is based on meeting the requirements for the following factors.

(a) Prerequisites:

(1) Varietal characteristics,

(2) Flavor and odor, and

(3) Appearance.

(b) Classified Quality Factors:

(1) Major blemished,

(2) Total blemished (Major and Minor),

(3) Fuzzy character,

(4) Ricey character,

(5) Soft character,

(6) Major color defects,

(7) Total color defects (Major and Minor),

(8) Core material,

(9) Fragments,

(10) Loose leaves, and

(11) Mechanical damage.

§ 52.727 Requirements for classified quality factors.

TABLE I.—AQL'S AND TOLERANCES (TOL.) FOR DEFECTS IN CLUSTERS STYLE BASED ON 50 UNITS OF PRODUCT FOR 13 SAMPLE UNITS, 50×13=650 UNITS

Sample units × Sample unit size			1×50	3×50	6×50	13×50	21×50	29×50
Units of product			50	150	300	650	1050	1450
Defects	AQL	TOL						
	Grade A		Acceptance numbers					
Major Blemished	3.8	5.0	4	9	17	33	50	67
Total Blemished (Major & Minor)	8.2	10.0	7	18	33	65	101	137
Fuzzy Character	1.3	2.0	2	4	7	13	20	26
Ricey Character	8.2	10.0	7	18	33	65	101	137
Soft Character	0.612	1.0	1	2	4	7	10	14
Major Color Defect	0.612	1.0	1	2	4	7	10	14
Total Color Defect (Major & Minor)	6.4	8.0	6	15	26	52	80	108
Core Material	2.17	3.0	3	6	11	20	31	41
Fragments	3.8	5.0	4	9	17	33	50	67
Mechanical Damage	8.2	10.0	7	18	33	65	101	137
Loose Leaves (each piece)	2.17	3.0	3	6	11	20	31	41
	Grade B		Acceptance numbers					
Major Blemished	8.2	10.0	7	18	33	65	101	137
Total Blemished (Major & Minor)	13.0	15.0	10	26	48	98	154	209
Fuzzy Character	6.4	8.0	6	15	26	52	80	108
Ricey Character	13.0	15.0	10	26	48	98	154	209
Soft Character	2.9	4.0	3	8	13	26	39	53
Major Color Defect	3.8	5.0	4	9	17	33	50	67
Total Color Defect (Major & Minor)	13.8	16.0	11	27	51	104	163	221
Core Material	3.8	5.0	4	9	17	33	50	67
Fragments	8.2	10.0	7	18	33	65	101	137
Mechanical Damage	17.6	20.0	13	34	63	130	205	279
Loose Leaves (each piece)	6.4	8.0	6	15	26	52	80	108

TABLE II.—AQL'S AND TOLERANCES (TOL.) FOR DEFECTS IN NUGGETS OR SMALL CLUSTERS STYLE BASED ON 100 GRAMS OF PRODUCT FOR 13 SAMPLE UNITS, 100×13=1300 UNITS

Sample units × Sample unit size			1×100	3×100	6×100	13×100	21×100	29×100
Grams of product			100	300	600	1300	2100	2900
Defects	AQL	TOL						
	Grade A		Acceptance numbers (Grams)					
Major Blemished	3.8	5.0	7	17	31	61	94	127
Total Blemished (Major & Minor)	8.2	10.0	13	33	61	123	194	263
Fuzzy Character	1.3	2.0	3	7	12	23	36	48
Ricey Character	8.2	10.0	13	33	61	123	194	263
Soft Character	0.612	1.0	2	4	7	12	19	24
Major Color Defect	2.17	3.0	4	11	19	37	56	76
Total Color Defect (Major & Minor)	8.2	10.0	13	33	61	123	194	263
Core Material	2.17	3.0	4	11	19	37	56	76
Fragments	3.8	5.0	7	17	31	61	94	127
Mechanical Damage	8.2	10.0	13	33	61	123	194	263
Loose Leaves (each piece)	3.8	5.0	7	17	31	61	94	127
	Grade B		Acceptance numbers (Grams)					
Major Blemished	8.2	10.0	13	33	61	123	194	263

TABLE II.—AQL'S AND TOLERANCES (TOL.) FOR DEFECTS IN NUGGETS OR SMALL CLUSTERS STYLE BASED ON 100 GRAMS OF PRODUCT FOR 13 SAMPLE UNITS, 100×13=1300 UNITS—Continued

Total Blemished (Major & Minor)	13.0	15.0	18	48	91	189	298	407
Fuzzy Character	6.4	8.0	10	26	48	98	153	208
Ricey Character	13.0	15.0	18	48	91	189	298	407
Soft Character	2.9	4.0	6	13	24	48	74	99
Major Color Defect	6.4	8.0	10	26	48	98	153	208
Total Color Defect (Major & Minor)	13.8	16.0	19	51	96	200	316	430
Core Material	2.17	3.0	4	11	19	37	56	76
Fragments	3.8	5.0	7	17	31	61	94	127
Mechanical Damage	17.6	20.0	24	63	121	251	398	544
Loose Leaves (each piece)	6.4	8.0	10	26	48	98	153	208

§ 52.728 Sample size.

The sample size used to determine whether the requirements of these standards are met shall be as specified in the sampling plans and procedures in the ''Regulations Governing Inspection and Certification of Processed Fruits and Vegetables, Processed Products Thereof, and Certain Other Processed Products'' (7 CFR 52.1 through 52.83).

§ 52.729 Acceptance criteria.

(a) *Style.* A lot of frozen cauliflower, is considered as meeting the requirements for style if the requirements in § 52.723, as applicable, are not exceeded.

(b) *Quality Factors.* A lot of frozen cauliflower is considered as meeting the requirements for quality if:

(1) The prerequisites specified in § 52.726 are met; and

(2) The Acceptance Numbers in Table I or II in § 52.727, as applicable, are not exceeded.

(c) *Single Sample Unit.* Each unofficial sample unit submitted for quality evaluation will be treated individually and is considered as meeting requirements for quality and style if:

(1) The prerequisites specified in § 52.726 are met; and

(2) The Acceptable Quality Levels (AQL's) in Tables I & II in § 52.723 and § 52.727, as applicable, are not exceeded.

Dated: November 20, 1995.

Lon Hatamiya,

Administrator.

[FR Doc. 95–28632 Filed 11–22–95; 8:45 am]

BILLING CODE 3410–02–P

FARM CREDIT ADMINISTRATION

12 CFR Part 614

RIN 3052–AB52

Loan Policies and Operations

AGENCY: Farm Credit Administration.

ACTION: Proposed rule.

SUMMARY: The Farm Credit Administration (FCA), by the Farm Credit Administration Board (Board), proposes to amend the regulations governing disclosure of loan information. The FCA proposes to remove the requirement that Farm Credit institutions give borrowers 10 days prior notification of a change in the interest rate on their variable rate loans and replace it with a 10-day post notification. This action would reduce the burden on institutions of a delay in interest rate changes while still providing borrowers with timely notice of a change. The proposed regulation would also make a technical amendment regarding eligible borrower stock.

DATES: Comments should be received on or before December 26, 1995.

ADDRESSES: Comments may be mailed or delivered to Patricia W. DiMuzio, Associate Director, Regulation Development, Office of Examination, Farm Credit Administration, McLean, Virginia 22102–5090. Copies of all communications received will be available for examination by interested parties in the Office of Examination, Farm Credit Administration, McLean, Virginia.

FOR FURTHER INFORMATION CONTACT:

Robert Child, Policy Analyst, Regulation Development, Office of Examination, Farm Credit Administration, McLean, VA 22102–5090, (703) 883–4498, TDD (703) 883–4444,

or

Joy E. Strickland, Senior Attorney, Regulatory Operations Division, Office of General Counsel, Farm Credit Administration, McLean, VA 22102–5090, (703) 883–4019, TDD (703) 883–4444.

SUPPLEMENTARY INFORMATION: Section 614.4367(c)(3)requires qualified lenders [1] to provide written notification to borrowers of a change in the interest rates on their adjustable rate loans. For decreases in rates, the notification must be provided not later than the effective date of the decrease. For increases in rates, the notice must be provided not later than 10 days before the effective date of the increase in the rate.

On June 23, 1993, the FCA Board published a ''Statement on Regulatory Burden'' (58 FR 34003) that requested comments regarding how the FCA could lessen the regulatory burden on Farm Credit institutions. In response, three institutions commented that the 10-day prior notification requirement was a burden that should be addressed by the Agency. One institution commented that the prior notification was a burden for variable rate loans that are tied to an external index, such as the prime rate, because borrowers have ready access to timely information about changes in such indexes. The other two commenters objected to the requirement for advance notification of borrowers for all variable rate loans, including those not tied to an external index.

The FCA is cognizant that delaying an adjustment in a variable interest rate can result in losses to an institution in situations in which an index increases or funding costs increase, but the institution is prohibited from increasing the interest rate charged to borrowers until a waiting period expires. In addition, the FCA recognizes that there are costs associated with mailing written notification of changes in interest rates. There may also be an unnecessary burden associated with the prior notice requirement where increases and decreases in loan rates are tied to indexes that are readily available in financial publications. The FCA considered these factors in attempting to balance the need of borrowers for timely information and the burden on Farm Credit institutions.

[1] A qualified lender is: (1) A Farm Credit institution that makes loans as defined by § 614.4366(e), except a bank for cooperatives; and (2) each other entity described in section 1.7(b)(1)(B) of the Farm Credit Act of 1971, as amended (Pub. L. 92–171), but only with respect to loans discounted or pledged under section 1.7(b)(1) of the Act. See, Act, § 614.4366(g).