

inhibiting manufacturers of federally inspected pizzas from producing and marketing the styles of pizzas that today's consumers demand. Once this rule becomes effective, products may be identified with a common or usual name that includes the term "pizza;" identifies the meat or poultry component, *e.g.*, "pepperoni;" and declares other components as a feature that distinguishes them from the other pizza product, *e.g.*, "pizza—garlic sauce, tomatoes, reduced-fat cheese, and seasoned beef strips on a crust."

FSIS is also amending the meat and poultry products inspection regulations to require, for a limited time, that the labels of products identified as meat or poultry pizzas in their common or usual names include the percent of meat or poultry in the product in a parenthetical statement that is contiguous to the ingredients statement. This labeling requirement will expire after three years. FSIS is adopting this requirement because, based on comments received in response to the proposed rule, the Agency has concluded that some consumers still rely on the standards to ensure that a product identified as a meat or poultry "pizza" contains a certain amount of meat or poultry. FSIS will allow pizza manufacturers to exhaust their remaining packaging inventory before they will be required to comply with the new labeling requirement. Requiring percent labeling of the meat or poultry content of non-standardized pizzas for a limited time is a transitional step to allow these consumers to understand the nature of the food.

DATES: This rule is effective October 22, 2003. Sections 317.8(b)(40) and 381.129(f) shall expire October 24, 2006.

FOR FURTHER INFORMATION CONTACT: Robert C. Post, Ph.D., Director, Labeling and Consumer Protection Staff, Food Safety and Inspection Service, U.S. Department of Agriculture, Washington, DC 20250-3700; (202) 205-0279.

SUPPLEMENTARY INFORMATION:

Background

On November 2, 2001, FSIS published a proposed rule in the **Federal Register** to amend part 319 of the Federal meat inspection regulations to rescind the standards of identity for "pizza with meat" and "pizza with sausage" (66 FR 55601). The proposed rule was in response to a petition submitted on February 4, 1999, by the National Frozen Pizza Institute (NFPI). In support of its petition, NFPI submitted data to demonstrate that the pizza standards are restricting the development of new products by the frozen pizza industry,

including pizzas with reductions in constituents that are of health concern to some people, such as fat and cholesterol. NFPI also presented evidence that, due to product innovation in the food service industry, consumers' expectations of what is meant by the term "pizza" are broader than what is prescribed by the current standards.

Once this final rule becomes effective, products identified as meat or sausage pizzas will no longer be required to contain tomato sauce, cheese, and a bread-based crust, as prescribed by the standards under 9 CFR 319.600. In addition, manufacturers of pizza products will be permitted to reduce the minimum meat content from 12 percent cooked or 15 percent raw to 2 percent cooked or 3 percent raw, the level of meat required for a product to be considered a meat food product subject to USDA jurisdiction.

In the preamble to the proposed rule, FSIS mentioned that although the regulations do not contain a standard of identity for pizza products that contain poultry, FSIS has treated these products as "like products" to pizza with meat or sausage. The Agency's policy has been that these products must contain at least 12 percent cooked poultry meat. Once this final rule becomes effective, the policy that pizzas that contain poultry must have a minimum poultry content will also be revoked.

As discussed in the preamble to the proposed rule, rescinding the meat and sausage pizza standards of identity does not mean that the names for products identified as "pizzas" will be unregulated. Under 9 CFR 317.2(c)(1) and 381.117(a), non-standardized meat and poultry products must be identified by the common or usual name of the product, or if the product has no common or usual name, a truthful, descriptive designation. FSIS has determined that, in the absence of a regulatory standard of identity, the term "pizza" represents the appropriate common or usual name for the class of products that have been traditionally formulated with the components stipulated in the regulatory standard prescribed by 9 CFR 319.600, *i.e.*, tomato sauce, cheese, and meat topping on a bread-based crust. Products that contain these ingredients may be identified by a common or usual name that includes the term "pizza;" identifies the meat or poultry component, *e.g.*, pepperoni; and declares any other components or features that distinguish it from traditional pizzas, *e.g.*, "pizza—garlic sauce, tomatoes, reduced-fat cheese, and seasoned beef strips on a crust."

In the preamble to the proposed rule, FSIS requested comments on whether the product names of non-standardized pizzas should be required to include the percent of meat or poultry. Based on the comments received in response to this question, FSIS has concluded that some consumers still rely on the standards to ensure that a meat or poultry product identified as a "pizza" contains a certain amount of meat or poultry. To prevent these consumers from being misled about the meat or poultry content of non-standardized pizzas, the Agency is requiring that the labeling of products that are identified in their common or usual names as pizzas that contain a meat or poultry component (*e.g.*, "pizza with meat," "sausage, green pepper, and mushroom pizza," "Thai pizza—chicken, peanut sauce, and vegetables on a crust") include a parenthetical statement of the percent of meat or poultry in the product that is contiguous to the ingredients statement. This labeling requirement will be effective for three years to allow consumers to become familiar with variations in the meat or poultry content that will be permitted in pizzas as non-standardized foods. FSIS will allow manufacturers of meat and poultry pizzas to exhaust their remaining packaging inventory before they will be required to comply with the new labeling requirement.

Comments and Responses

The comment period for the proposed rule closed on January 2, 2002. However, in response to comments requesting that FSIS extend the comment period, on March 14, 2002, the Agency reopened and extended that comment period for an additional 30 days. Thus, the comment period closed on April 15, 2002.

FSIS received 36 comments in response to the proposed rule from consumers, consumer advocacy organizations, members of the frozen pizza industry, academia, industry consultants, and trade and professional associations representing livestock producers, meat processors, food processors, seasoning manufacturers, soy product producers, and dietitians. Most of the commenters supported eliminating the standards of identity for meat and sausage pizzas. In general, the supporters agreed that the standards are restricting the development of new products by the frozen pizza industry, and that consumers' expectations of what is meant by the term "pizza" are broader than what is prescribed by the current standards. Eight commenters opposed the proposed rule, mainly because they believe that the current