

requirements for other non-standardized meat and poultry products.

Comment: One commenter suggested that rather than rescind the pizza standards, FSIS should decline jurisdiction over pizzas made with processed meat products. The commenter felt that inspection of these products is a waste of resources that could be better directed to overseeing the slaughter of animals and preparation of raw meat products. The commenter stated that legally FSIS could declare that food products that contain less than 50 percent cooked meat are not considered "meat food products" and therefore, are not subject to FSIS jurisdiction.

Response: Under section 1(j) of the FMIA, the Secretary of Agriculture, and FSIS by delegation, may exempt from the definition of "meat food products" those products that contain meat only in relatively small proportions or that have not been considered by consumers as products of the meat food industry (21 U.S.C. 601(j)). FSIS does not believe that products that consist of up to 49 percent cooked meat contain meat in relatively small proportions as contemplated by the FMIA. Furthermore, FSIS is not aware of any evidence to indicate that consumers do not consider meat pizzas as products of the meat food industry. Therefore, FSIS disagrees that it should decline jurisdiction over meat pizzas and other products that contain less than 50 percent cooked meat.

Comment: One commenter suggested that in addition to eliminating the pizza standards, FSIS should examine the wisdom of its remaining regulatory standards. Another commenter stated that standards reform should not be delayed. This commenter felt that continued adherence to the standards by FSIS impedes product innovation to the detriment of consumers and food industry alike. Another commenter stated that rather than eliminating regulatory standards of identity for meat and poultry products, FSIS should implement them in a more harmonious way. The commenter stated that the regulatory standards governing the amount of poultry in processed food products that contain poultry are substantially different from those governing the meat content of similar processed products that contain meat.

Response: FSIS and FDA are jointly developing a proposed rule whose goal is to establish "general principles" that outside parties can apply in requesting changes to food standards. The proposed rule, "Food Standards; General Principles and Standards Modernization" (the "General Principles" proposal) will address all

Federal food standards of identity, whether under FSIS jurisdiction or that of the FDA. Following the conclusion of this rulemaking, parties interested in pursuing changes to the regulatory standards of identity may petition the Agency to initiate rulemaking to make the requested changes.

Comment: One commenter noted that in the preamble to the proposed rule, FSIS stated that consumers "understand the term "pizza" to mean "an open-faced crust with one or more of a variety of ingredients" (66 FR 55601). The commenter noted that it produces pizza stuffed sandwiches that are required to comply with the pizza standards and requested that FSIS recognize that the term "pizza" is not limited to products with open-faced crusts.

Response: Products such as "pizza rolls" or "pizza pockets" are non-standardized products that must be identified by descriptive names. Those products that were required to comply with the minimum meat content prescribed by the standards will no longer be required to do so once the standards are eliminated. However, any product identified as "pizza" product that lists a meat or poultry component as part of the product name, including a product identified as a "meat pizza roll," must comply with the meat or poultry content labeling requirement prescribed by this final rule.

Comment: One commenter stated that in the proposed rule's analysis under the Regulatory Flexibility Act, FSIS failed to discuss the impact that elimination of the pizza standards will have on small businesses that make meat toppings for pizzas.

Response: The four companies that supply most of the meat toppings, such as pepperoni, sausage, and chopped meat, to both major and contract pizza manufacturers are large businesses. There are some small regional companies that supply meat toppings to regional manufacturers. However, this final rule is not likely to have a significant economic impact on these small businesses. Once the standards are rescinded, FSIS has no information to indicate that in the absence of the minimum meat content requirement prescribed by the standards companies will significantly reduce the amount of meat or poultry in products identified as "pizza". As discussed above, companies are likely to continue to manufacture pizzas with an amount of meat that consumers desire because if they do not they will lose their market share to companies that do. Therefore, FSIS does not believe that this final rule will have an adverse impact on the small

businesses that supply meat toppings for packaged pizza products.

The Final Rule

As proposed, FSIS is rescinding the regulatory standards of identity for pizza by removing 9 CFR 319.600 from the federal meat inspection regulations. In addition, the Agency is amending 9 CFR 317.8 and 9 CFR 381.129 by adding new paragraphs (b)(40) and (f), respectively, to require that the labeling of meat or poultry products identified as "pizza" that contain a meat or poultry component as part of the product name convey the percent of the meat or poultry in the product in a parenthetical statement contiguous to the ingredients statement. The percentage of meat or poultry in the product must be calculated on the weight of the cooked, dried, or cured meat or poultry in the product (as opposed to the weight of the raw meat or poultry) in relation to all components of the product. This labeling requirement will expire three years after the effective date of this rule. Pizza manufacturers are permitted to exhaust their remaining packaging inventory before they will be required to comply with the new labeling requirement.

Executive Order 12866 and Unfunded Mandates Reform Act

I. Executive Order 12866: Cost-benefit Analysis

This action has been reviewed for compliance with Executive Order (EO) 12866. EO 12866 directs agencies to assess all costs and benefits of available regulatory alternatives and, when a regulation is necessary, to select the regulatory approach that maximizes net benefits (including potential economic, environmental, public health and safety, and other advantages, distributive impacts, and equity). We have determined that this final rule maximizes net benefits to consumers by removing the standard of identity for "pizza with meat" and "pizza with sausage."

EO 12866 classifies a rule as significant if it meets any one of a number of specified conditions, including: having an annual effect on the economy of \$100 million, adversely affecting a sector of the economy in a material way, adversely affecting competition, or adversely affecting jobs. A regulation is also considered a significant regulatory action if it raises novel legal or policy issues. This final rule has been designated as non-significant as defined by EO 12866 and therefore has not been reviewed by the Office of Management and Budget.