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01-018
01-018P-35
Stein Hordvik

RE: Docket No. 01-018P; Definitions and Standards of Identity or Composition: Elimination of the Pizza Standard; Proposed Rule; 66FR55601

ConAgra Foods Retail Products Company, Frozen Foods Group (FFG) is a multinational food company which manufactures and distributes a wide variety of branded and non-branded food products throughout the United States and worldwide. FFG's products include pizzas under the Mama Rosa, The Max, Wolfgang Puck, Banquet, Marie Callendar and Healthy Choice brand names. Consequently, FFG is deeply affected by changes in food labeling regulations.

FFG appreciates the opportunity to comment on the November 2, 2001, proposed rule that would amend the Federal meat inspection regulations to remove the standards of identity for "pizza with meat" and "pizza with sausage," and FFG strongly supports the U.S. Department of Agriculture's (USDA's) Food Safety and Inspection Service (FSIS) efforts to do so.

There are several reasons to eliminate the pizza standards of identity at issue:

1. The current standard, at 30 years old, is outdated and no longer reflects the marketplace nor meets consumer expectations.
2. Foodservice/restaurant pizzas, which account for nearly 85% of the pizzas purchased in the United States, are not subject to these standards, and so can offer a wider variety of better tasting options. The discrepancies in sales alone indicate consumers are voting with their pocketbooks for foodservice pizza over frozen pizza by nearly six to one.
3. The current standard does nothing to alleviate the obesity epidemic among our youth, and, in fact, may be helping to exacerbate it as pizza is a mainstay of the teenage diet, yet pizzas they buy in a grocery store cannot have lean meats or healthier alternatives.

4. The standard was promulgated at a time when there were not ingredient or nutritional labeling requirements, so a standard of identity helped to keep manufacturers “honest”. Today we have such regulations, and a wealth of consumer information on food products and their ingredients and nutritional composition and no longer need this information in the form of a standard, especially when it prevents them from buying healthy pizzas at their grocery stores.

1. The Current Standard is Outdated

The current pizza standard of identity no longer reflects the marketplace and those consumers that the retail pizza industry serves. The pizza standard, 9 C.F.R. § 319.600 as finalized in 1970 and amended in 1978 and 1982, is inconsistent with the variety of pizzas that consumers have come to expect. While a strong demand continues for traditional meat topped pizza, consisting of a bread based meat food product with tomato sauce, cheese and meat toppings, consumers have expressed their interest in a variety of offerings including lower fat products, and pizzas with different sauces and crusts. In today’s marketplace, which is made up of foodservice and grocery offerings, one or more components, special toppings, sauce, crust, cheese and/or meat drive consumer preference, not just meat alone. Moreover, even the Agency has determined that “these standards may be inhibiting manufacturers of federally inspected frozen pizza from producing and marketing the new styles of pizzas that today’s consumers demand.”

2. Restaurant Pizzas Have Changed Consumer Expectations

Standards of identity are government approved recipes for common products, creating a regulatory framework within which to ensure that consumer expectations are met regarding recognized and commonly used names. The current standard of identity for pizza was adopted in 1970, when the term “pizza” referred to a four-component product comprised of meat, cheese, dough-based crust and tomato sauce. However, this “traditional” product, while still important, no longer represents the consumer concept of “pizza”.

As provided in the National Frozen Pizza Institute’s (NFPI’s) petition, the vast majority of pizzas sold in the United States are not manufactured by inspected establishments; rather approximately 85 percent are manufactured and sold at the retail level, primarily by restaurants and delivery operators. FSIS has not applied the standard to these products. As a result, these manufacturers have been free to modify the “traditional” pizza, and manufacturers like FFG have been discriminated against by a standard that does not apply to 85 percent of the pizza market.

Restaurant pizzas do not necessarily contain the four components. Specialty restaurant pizzas may use a béchamel or pesto sauce rather than tomatoes and/or tomato sauce. There are pizza crusts made without flour dough such as those formulated with corn meal. White pizza contains no sauce and new varieties of pizza contain no cheese. In fact, restaurateurs have changed the image of pizza into a dynamic product that meets, and if properly managed, anticipates consumer expectations. The term “pizza” in the context of a restaurant represents any product with one or more toppings on an open-faced crust. Frozen retail pizza manufacturers must be afforded the same opportunity. Moreover, the presence of the pizza standard stifles creativity throughout the category, hindering competition and encumbering rather than protecting consumer choice.

3. Healthier Pizzas Are Not Possible Under the Current Standard.

Eradication of the standard will increase consumer nutritional choices. Elimination of the standard will simplify the ability for frozen pizza manufacturers to specially formulate pizzas that are more consistent with the USDA’s nutritional guidelines, such as reducing fat and cholesterol in American diets. For example, it is not always economically viable to use leaner meats, which are more expensive on a per pound basis, when a manufacturer has to comply with a percentage minimum weight. However, when there is no minimum percentage, a manufacturer can use leaner meats to enhance the nutritional profile of the product. This allows a manufacturer to cut out the fat while providing the same amount of “meat”. With obesity declared an epidemic in the United States, and especially among our children, allowing for “healthier” pizzas, primarily a “kid food”, is a necessity.

4. Naming Non-Standardized Pizzas

In general, FFG agrees with the Agency’s proposed approach of naming pizzas in the absence of a standardized name. Under the Federal Meat Inspection Act, non-standardized product should bear either the common or usual name of the food, or a truthful descriptive designation. The Agency correctly notes in the preamble to the proposal, that merely because the standard is rescinded, the issue of product name remains. FFG agrees that a “traditional” or “common and usual” pizza contains the four original components, bread-based crust, tomato sauce, cheese and meat or poultry. As the Agency recognized in its proposal, there are poultry topped pizzas which have been informally regulated under the meat pizza standard. Elimination of the meat pizza standard will permit poultry pizzas to enjoy the same flexibility in composition. Thus, it is appropriate for a traditional product to use the term “pizza” with a designation of the meat component such as “pizza with pepperoni...” Likewise, products that would substitute other ingredients for the “traditional” four should include a descriptive qualifier following “pizza,” such as “pizza with sausage and pesto sauce.” FFG believes that

pizzas composed entirely of substitute cheeses should be allowed to follow this same criterion.

5. Current Consumer Information, Both On and Off the Label, Is Adequate

The Agency has tentatively determined that required labeling features such as the product name, ingredient statement (with all ingredients in descending order of predominance), and nutrition facts panel will provide adequate information for consumers to make informed choices when purchasing federally inspected pizza products in the absence of a standard. FFG concurs with the Agency and suggests that these tools have evolved over time to offer consumers more complete, useful and accurate information.

The pizza standard was promulgated 20+ years prior to the advent of rules that require full nutritional and ingredient disclosure. Hence, when the standard was finalized, there was no vehicle to ensure that consumers were able to determine independently the key attributes of a product. Likewise, **as** previously mentioned, the defined scope of pizza at that time was very narrow. Today, consumers know the nutritional qualities and ingredients of almost all foods they buy, including frozen meat-topped pizza. Consumers are informed about how the nutrients in those foods fit into **an** overall daily diet and are provided with special definitions and requirements for terms that describe a food's nutritional content, such as "light" or "**low-fat**". Additionally, label instructions, graphics, toll free numbers, brochures, supermarket information and company websites contribute to the consumer's knowledge and make the current pizza standards unnecessary as **an** ingredient communication tool.

6. Mandatory Percent Meat Ingredient Labeling is Unnecessary

As suggested by NFPI, to most consumers, the term "pizza" refers to an open-faced crust that is topped with a variety of ingredients? Requiring the name to include the percentage of meat or poultry in the product is in direct conflict to the petitioner's justification for requesting rescission of the standard in the first place, and that is the dual standard applied to frozen pizza versus foodservice pizza. Furthermore, the Agency has stated it has "determined that, because consumer expectations of what a product identified as a pizza should contain differ from what is prescribed by the current standards, the standards no longer serve their original purpose of protecting the public from economic deception."³ FFG questions the purpose percent meat or poultry topping requirement would serve and believes there is no basis or value to consumers in mandating this information on the label.

In response to the Agency's request for comment on whether meat percentage should be included, we respectfully submit such information should not be required, *First*, as the Agency has tentatively determined, it is not necessary given the mandatory ingredient and nutrition information on the label. Second, to the best of our knowledge, mandatory percentage labeling is not required by any FSIS regulation or policy. Third, it would not be required on the pizzas sold by restaurants and delivery operators, thereby re-establishing differing regulatory treatment. Fourth, unlike some other products, the meat content is readily apparent with even a superficial visual examination; allowing the consumer to assess value versus price. And *fifth*, percent ingredient labeling could lead to a counter-productive horsepower race...which pizza has the most meat?

There is also the issue of how the elimination of the standard will affect existing informal policies, primarily those contained in the Standards and Labeling Policy Book. Obviously, those which are based on the standard, such as the minimum amount of bacon in a bacon pizza or calculation of compliance for combination pizzas, would no longer be appropriate. However, other policies, such as the relative **type** size of the word "pizza" versus other words in the product name will remain relevant. In NFPI's comments they identify all entries in the Labeling Policy Book that deal with pizza and noted whether, in their view, the entry needs to be eliminated or retained, and if retained, whether it would need modification.

Finally, there is the issue of generic approval of pizza labels. Currently, labeling of meat and poultry products that are covered by a product standard under 9 C.F.R. Part 319 or the Standards and Labeling Policy Book (Policy Book) – such as pizza and pizza burgers – may be generically approved if they do not contain any special claims. However, labeling of products not covered by a product standard or bearing special claims must be submitted to FSIS for formal label approval. If the pizza standard and some of the product standards set forth in the Policy Book are eliminated, there is some concern that labeling for pizza products will require formal approval.

Over the last six years, most labeling for pizza and pizza products **has** been generically approved with little or no problems. In keeping with this practice and in conformity with FSIS's stated goal of gradually streamlining and modernizing the label approval system (see 60 Fed. Reg. **67444**, 67448), we respectfully submit that labeling for pizza and pizza products should continue to be generically approved. Not only will permitting generic approval not affect the safety of pizza products, it will be consistent with the Agency's focus on using resources to address public health risks. To that extent, FSIS should clarify in any final rule eliminating the standard of identity for pizza or any pizza product that labeling may continue to be generically approved.

From the information presented in the proposal, and based upon the experience of the restaurant and frozen pizza industry, it is apparent that meat and/or poultry toppings on a pizza are not the only, or for that matter, the most important ingredients by which consumers judge the quality and desirability of a pizza. Requiring percentage meat or poultry labeling refocuses attention on **this** attribute that is only important in the context of the entire product. Extending FSIS's line of reasoning on the question would suggest that other ingredients, e.g., the quantity of cheese or the number of black olives, should be labeled. FFG suggests that percent ingredient labeling, including a requirement for meat or poultry percent ingredient labeling, is unnecessary given current labeling rules, is inconsistent with other **FSIS** and FDA labeling regulations, and is not in keeping with historical United States government policy regarding standards that suggest percentage ingredient labeling of foods in international trade!

Requiring percent meat ingredient labeling on frozen pizza would be exchanging one set of untenable requirements that led to inequities between frozen pizza manufacturers and the food service industry with another, thereby re-establishing differing regulatory treatment that deprives consumers of the diversity of choice in this product category.

Lastly, the meat content of frozen pizza is readily apparent with even a superficial visual examination allowing the consumer to assess value versus price. Importantly, frozen pizza manufacturers, just **as** restaurants, rely upon repeat buyers to sustain growth and development. Frozen pepperoni or sausage pizza must contain all the ingredients, a good tasty sauce, ample cheese, **an** excellent crust and plentiful toppings to keep the customer returning to their brand.

7. Elimination of the Standard In Keeping With Other Agency Efforts

As part of the post-HACCP inspection modernization process, FSIS has indicated its intention to focus more attention on food safety plant concerns and grant greater flexibility (and responsibility) to the plant on other consumer protection activities (OCP).⁵

Moreover, on September 9, 1996, FSIS published an Advance Notice of Proposed Rulemaking (ANPR) on standards of identity generally, questioning whether prescriptive

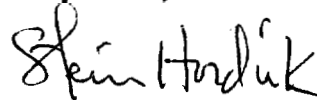
standards still served a function seeking input and how to proceed with changes! FFG believes, and by its action the Agency has affirmed, that the NFPI petition not only has shown that the pizza standard no longer serves a function, but also exemplifies how to justify a request for change. NFPI met with the frozen pizza industry to gain consensus, and gathered evidence on the relevant market to demonstrate consumer expectation as to that, which constitutes a “pizza”. It shared its intention with representatives of consumer organizations and obtained their support, as witnessed by letters filed with the Agency in support of the NFPI petition.

Conclusion

Some meat companies are concerned that a relaxation of the standard will result in reduced sales of meat to frozen pizza manufacturers. FFG believes that the proposal will instead allow food manufacturers an opportunity to provide products that are healthier and are more relevant to current consumer lifestyles.

FFG believes the NFPI petition and the subsequent FSIS proposal have substantial merit and should be finalized without the incorporation of onerous and unnecessary percent meat ingredient labeling provisions. FFG appreciates FSIS’s consideration of the its comments, and we look forward to continuing to work with the Agency on this issue in the future.

Respectfully submitted,

A handwritten signature in black ink that reads "Stein Hordvik". The signature is written in a cursive, slightly slanted style.

Stein Hordvik
Vice President and Chief Quality Officer