



B-284328

January 12, 2000

The Honorable Richard G. Lugar
Chairman
The Honorable Tom Harkin
Ranking Minority Member
Committee on Agriculture, Nutrition, and Forestry
United States Senate

The Honorable Thomas J. Bliley
Chairman
The Honorable John D. Dingell
Ranking Minority Member
Committee on Commerce
House of Representatives

Subject: Department of Agriculture, Food Safety and Inspection Service: Irradiation
of Meat Food Products

Pursuant to section 801(a)(2)(A) of title 5, United States Code, this is our report on a major rule promulgated by the Department of Agriculture, Food Safety and Inspection Service (FSIS), entitled "Irradiation of Meat Food Products" (Docket No. 97-076F). We received the rule on January 4, 2000. It was published in the Federal Register as a final rule on December 23, 1999. 64 Fed. Reg. 72150.

The final rule amends the FSIS rules to permit the use of ionizing radiation for treating refrigerated or frozen uncooked meat, meat byproducts, and certain other meat food products to reduce levels of foodborne pathogens and to extend shelf-life. Also, the rule revises existing regulations governing the irradiation of poultry products so that they will be as consistent as possible with the regulations for the irradiation of meat food products.

The final rule has an announced effective date of February 22, 2000. The Congressional Review Act requires major rules to have a 60-day delay in their effective date following publication in the Federal Register or receipt of the rule by Congress, whichever is later. 5 U.S.C. 801(a)(3)(A) Congress and our Office did not receive the rule until January 4, 2000, which means the final rule will not have the required 60-day delay in the effective date.

Enclosed is our assessment of the FSIS' compliance with the procedural steps required by section 801(a)(1)(B)(i) through (iv) of title 5 with respect to the rule. Our review indicates that the FSIS, with the exception of the delay in the effective date discussed above, complied with the applicable requirements.

If you have any questions about this report, please contact James W. Vickers, Assistant General Counsel, at (202) 512-8210. The official responsible for GAO evaluation work relating to the subject matter of the rule is Larry Dyckman, Director, Food and Agriculture Issues. Mr. Dyckman can be reached at (202) 512-5138.

Sincerely yours,

Robert P. Murphy
General Counsel

Enclosure

cc: Mr. Thomas J. Billy
Administrator, Food Safety and
Inspection Service
Department of Agriculture

ANALYSIS UNDER 5 U.S.C. § 801(a)(1)(B)(i)-(iv) OF A MAJOR RULE
ISSUED BY THE
DEPARTMENT OF AGRICULTURE,
FOOD SAFETY AND INSPECTION SERVICE
ENTITLED
"IRRADIATION OF MEAT FOOD PRODUCTS"
(DOCKET NO. 97-076F)

(i) Cost-benefit analysis

FSIS conducted a cost-benefit analysis of the final rule, but it was difficult to quantify the costs or benefits because the use of irradiation is voluntary. However, if 25 percent of the total annual sales of ground beef were irradiated at a cost of 2 to 6 cents a pound, the annual cost would range from \$35 to \$105 million in 1995 dollars.

The benefits of the final rule are a reduction in the levels of pathogens in meat food products and poultry products and a longer shelf-life for these products.

(ii) Agency actions relevant to the Regulatory Flexibility Act, 5 U.S.C. §§ 603-605, 607, and 609

The Administrator of FSIS has certified that the final rule will not have a significant economic impact on a substantial number of small entities.

(iii) Agency actions relevant to sections 202-205 of the Unfunded Mandates Reform Act of 1995, 2 U.S.C. §§ 1532-1535

The final rule does not contain federal mandates, as that term is defined by Title II of the Act, on either state, local, or tribal governments or the private sector.

(iv) Other relevant information or requirements under acts and executive orders

Administrative Procedure Act, 5 U.S.C. §§ 551 *et seq.*

The final rule was issued using the notice and comment procedures contained at 5 U.S.C. 553. On February 24, 1999, the FSIS published a Notice of Proposed Rulemaking (64 Fed. Reg. 9089), and received over 1,100 comments in response. In the preamble to the final rule, the FSIS summarizes and responds to the comments.

Paperwork Reduction Act, 44 U.S.C. §§ 3501-3520

The final rule contains an information collection requirement (labeling) that is subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act.

After considering the comments received, changes were made in the labeling requirement which reduced the annual estimated burden hours already submitted to OMB with the approval request. OMB has approved the collection and assigned OMB control number 0582-0115.

Statutory authorization for the rule

The final rule was promulgated under the authority of the Federal Meat Inspection Act and the Poultry Products Inspection Act.

Executive Order No. 12866

The final rule was found to be an “economically significant” regulatory action and was reviewed and approved by the Office of Management and Budget as complying with the requirements of the Order.