



State of Wisconsin
Jim Doyle, Governor

Department of Agriculture, Trade and Consumer Protection
Rod Nilsestuen, Secretary

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Docket Clerk-Docket No. 05-013N
USDA FSIS
300 12th Street, SW.
Room 102 Cotton Annex
Washington, DC 20250

05-013N
05-013N-6
Terry L. Burkhardt

Docket Clerk:

I am the director of the state meat inspection program in Wisconsin. I applaud FSIS and FDA for taking a stab at trying to simplify or modify the current situation related to amenability of products. Earlier in my career, I worked as a label reviewer and had many discussions related to the amenability of products and the amount of meat necessary to meet a published standard of identity.

The current regulations create many instances where both FDA and FSIS have joint responsibility in an establishment because of the meat and non-meat products that are produced. Examples include producers of pizza, egg rolls, burritos, pasties, and soups to name a few of those commodities. Any change in the regulations should be designed to avoid duplication of resources between agencies. It is extremely difficult for establishments to deal with 2 different regulatory agencies in the production of their products.

We believe that distinctions should be made along product lines and not be solely based upon the amount of meat and poultry in a product. We also believe that the risk of the particular product category should also be taken into consideration when determining which Agency should regulate the production, considering that FSIS has mandatory HACCP for establishments under their jurisdiction.

We agree with the proposal that all meat sandwich type products, closed, open, wraps, dough covered meat products should fall under the jurisdiction of FSIS. We also agree with the proposal that all pizza type products should fall under the jurisdiction of FDA. That would include all meat and non-meat type pizzas and all variations such as deep dish, stuffed crust, and pizza turnovers.

We agree with the concept regarding considering the contribution of the meat and poultry ingredients to the identity of the food. With that in mind we believe that products such as egg rolls, pasties, burritos and soups that contain meat components should now fall under the jurisdiction of FDA. It does seem more reasonable to determine that meat food products contain more than 50% meat fall under FSIS jurisdiction and products containing less than 50% meat fall under FDA jurisdiction.

Agriculture generates \$51.5 billion for Wisconsin

In Wisconsin, we have about 60 state-inspected establishments that produce meat pizzas for wholesale distribution. Changing the regulations would have a significant impact on those businesses as well as impacting all other state-inspected meat establishments. The current prohibition on shipment of state-inspected products in interstate commerce comes into consideration with any proposed rule change.

For example if FDA assumes the jurisdiction over pizza or other commodities, those businesses and those products automatically gain access to the interstate market. On the flip side, sandwich producers, who previously were under the jurisdiction of FDA or a state food inspection program, would now fall under FSIS or state meat inspection authority. Currently, these sandwich producers have access to the interstate market. If the rules change all sandwich production would need to fall under FSIS authority in order to maintain their interstate market.

In Wisconsin we have about 25 establishments that produce sandwiches for commercial distribution. These businesses are now regulated by the state's food inspection program. The proposal would directly impact these businesses. Most of these sandwich production facilities are small businesses and would have difficulty in complying with the extensive FSIS regulations.

We believe that the interstate shipment issue is closely related to the amenability issue and should be seriously considered with changes in amenability of products. It would be terribly disruptive for a business to lose their interstate market simply because the jurisdiction over their product has changed.

In our state, the Wisconsin meat processors would be in an uproar if suddenly, pizzas were allowed to move freely in interstate commerce while their sausage products were still limited for in state distribution only. It wouldn't seem right considering that the same inspection system had previously been in place for both pizza and sausage production under state inspection.

Any establishment that changes from FDA to FSIS jurisdiction will be faced with preparation of Sanitation Standard Operating Plans and Hazard Analysis Critical Control Point plans prior to coming under FSIS. This will entail a tremendous amount of time and expense. Also, those plants would need to revise their labeling to include federal inspection legends, nutritional information and other possible labeling requirements.

Establishments that change from FSIS to FDA would also need to change their labeling materials to remove all federal or state inspection legends.

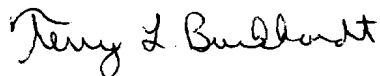
We suggest that FDA and FSIS allow a significant period of time for the conversion to identify plants and products that would be impacted by this change. Then we recommend a period no less than 2 years to make the conversion. Hopefully, the interstate shipment issue could also be addressed during that period of time.

We don't believe the consumer's perception would be impacted by these changes. However, many establishments would experience the significant difference between FSIS and FDA oversight, from mandatory HACCP and daily inspection to voluntary HACCP and random inspection.

There could be a significant change in the way that products are marketed as a result of the proposal. Companies with products that now become eligible for interstate commerce could significantly expand their marketing to include internet sales. On the other side however, products that now become amenable to FSIS jurisdiction or state meat inspection jurisdiction, now are limited to in state sales if inspected by the state's meat inspection program.

As a final note, considering the amenability door is slightly open, we recommend you open the door completely and address some other amenability issues, particularly, the issue of amenable species. We believe that species such as buffalo, farm-raised deer, captive game birds, and other species commonly used for food be considered as species requiring mandatory inspection at government expense. It does not seem reasonable for FSIS to consider cattle as a specie that mandates ante and post mortem inspection and not require buffalo when both species provide the same risks to consumers.

Respectfully submitted,



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Cc: Steve Steinhoff