



It's what your *family* deserves."

November 9, 2001

FSIS Docket Room, (Docket #01-030N)  
U.S. Department of Agriculture, Food Safety and Inspection Service  
Room 102, Cotton Annex  
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Washington, D. C., 20250-3700

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Tyson Foods

At this time we would like to take the opportunity to address the FSIS questions regarding the petition filed against the Jan. 9, 2002 enforcement date of the moisture rule.

Did FSIS allow sufficient time to prepare for implementation; why or why not?

We feel that there was not sufficient time allowed to prepare for implementation. This was a two-part rule, with guide lines for the first part of the rule published after about half the implementation time had expired. Running the experiment will take a minimum of three weeks but could take up to five weeks over holiday weeks in order to keep from holding samples over a weekend. A minimum of a week will be required for analyzing and summarizing the data and determining the unavoidable amount of moisture to achieve food safety. The plant then has to develop a process control program to assure we are not exceeding the unavoidable moisture level we need to maintain, this will take at least a month. After all of these steps the plant can begin measuring retained moisture at packaging. To do so before this point would be an exercise in futility. In order to accurately predict the amount of unavoidable moisture in a package with 95% confidence over the year, one-year's worth of data collection would be required in order to take into account seasonal differences. Some time will again be required to analyze the year's worth of data to determine the 95% confidence for retained moisture at packaging. We have approximately 6 months of packaging on hand that must be used. It will take at a minimum 6-8 weeks for our packaging supplier to make and proof new plates and print new labels. Placing stickers on the packages prior to receiving new labels is not an option, it requires more labor and stick-on labels are notorious for falling off, which would open the plant up to being out of compliance, and having a recall or being shut down for economic adulteration.

Is available laboratory space sufficient or insufficient?

We do not have enough laboratory capacity plus we may have to purchase additional equipment and perhaps add personnel. Beginning November 26, 2001, our plant Salmonella spp. testing will be sent out. The corporate lab estimated the time required for doing the Salmonella testing of at least 6 months. The plant labs are not equipped with drying oven, these will have to be purchased and we may have to hire and train people to perform dry matter determinations. We normally perform 10 E. coli samples in a day; the protocol will require us to do 50 more E. coli samples a day. The extra testing may require us to hire and train additional personnel.



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Is there additional information regarding the time to produce new labels, which should be considered?

Yes, there is additional information to be considered. Packaging changes are at least a two-phase process, the making of new plates, and then the printing and delivery of new labels. Label making capability is limited, if 400 plants are requesting label changes at the same time, some plants will be behind other plants in priority or chronology.

Would postponement be fair or unfair to anyone and, if so how?

Postponement would be most fair to everyone. By not postponing the rule would effectively shut down the poultry industry, eliminating a choice of proteins the consumer can purchase. This would also drive the price of other proteins up, again affecting the consumer's budget. All of the allied industries would likewise be affected, such as trucking, advertising and government due to the tax revenue lost through the job reductions caused by shutting the industry down.

Would postponement affect the consumers and, if so, how?

Postponement would be the fairest action for the consumer. The consumers will continue to be able to make choices for their protein. The effect on the consumer's budget would be minimized. The consumer will be able to continue to make informed decisions based on the industries past level of performance, quality and value.

Finally the industry intends to comply with the rule and provide the consumer with retained water information. To do this, industry must have time to develop new procedures, collect and analyze data and then print packaging material as required.

Industry realized that many of its products retain little to no water, deboned breast meat for example. If industry is not allowed time to collect data for labeling of all parts, but instead forced to label all items with the amount of moisture retained in whole birds, would be a huge injustice. This is because whole birds are the easiest to collect data on, but represent less than 10% of all products sold. This practice would drive some companies out of business, while economically impacting all poultry companies.