

November 14, 2001

01-030N
01-030N-117
Todd S. Beal

Docket Clerk, Docket Number 01-030N
U.S. Department of Agriculture
Food Safety and Inspection Service
300 12th Street, SW
Room 102 Cotton Annex
Washington, DC 20250

117

Dear Sir or Madam:

Zacky Farms appreciates the opportunity to comment further on the "Announcement of and Request for Comment on the Industry Petition to Postpone the Effective Date of Regulations Limiting and Requiring Labeling for Retained Water in Raw Meat and Poultry Products." (Docket number 01-030N). We fully support the request for extending the compliance deadline for "Retained Water in Raw Meat and Poultry Products: Poultry Chilling Requirements" until August 2004, based on the issues that are contained in the industries petition. We have included comment on questions raised by FSIS in this Federal Register publication in regards to the industry petition.

First, did the Agency allow adequate time to prepare for implementation? The industry did not receive clear direction until as late as July 2001 in the form of a modified protocol from the Agency which supposedly contained the best components from the array of protocols submitted by the industry. This essentially cut the available time to comply in half.

Second, is there sufficient time to enable the industry to complete the immense sampling and laboratory analyses associated with the protocol? We are a relatively small company with limited resources. The volume of testing needed to complete the protocol and then the analytical testing to establish the difference in naturally occurring moisture and post chill moisture to comply with the labeling requirement greatly exceeds our capacity and resources given the limited time frame. There are also valid questions raised over the seasonal effects and variations in naturally occurring moisture that would not be accounted for with the current implementation date.

Third, is there adequate time to effect the needed labeling changes to include the retained moisture claim? After completing the extensive testing a company of even our size would have a monumental amount of boxes, bags, film and labels to be updated. As part of a joint industry and agency meeting in Omaha in February 2001 discussing the proposed rule a guest speaker from the packaging industry felt it could take 12 to 18 months, given the timing of all companies at once needing the changes, to make the needed changes to include the moisture claim. There are also many issues not identified, we pack product for many private label brands all changes would have to be coordinated and approved through the appropriate channels. If the implementation did not allow adequate time and we were unable continue the to produce for these customers the outcome would be devastating to our business.

Finally, we do not feel that the postponement would be unfair to anyone, especially the consumer. Consumers are, for the most part, educated to the practices of the industry and will continue to purchase the same product they have for decades, the safest and most affordable meat and poultry products in the world. Proceeding with the current implementation date would be detrimental to those establishments which may not be able to comply through no fault of their own, except for the lack of time and resources, especially the small companies. To punish these companies would affect thousands of jobs and families and potentially disrupt the current supply of affordable protein.

Also we would like to question the agency's assumption that moisture retention is in anyway related to food safety performance standards. It is our opinion, moisture retention is primarily related to effectively cleaning visible contamination and chilling product.

We greatly appreciate your consideration as you deliberate our request for postponement of the effective date.

Sincerely,

A handwritten signature in black ink that reads "Todd S. Beal". The signature is written in a cursive, slightly slanted style.

Todd S. Beal
Director of Food Safety
Zacky Farms