

To: USDA / FSIS



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Leon Dixon

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Subject: Comments to the Petition Concerning Moisture Rule

This letter is in response to questions proposed by USDA / FSIS to the petition filed by the National Chicken Council (NCC) in regard to the January 9, 2002 enforcement date of the new moisture rule.

First, FSIS did not allow sufficient time to prepare for the implementation. This was a two-part rule requiring that guidelines for the first part of the rule to be published after half the implementation time had expired. After protocol was developed and submitted, most of the remaining time was used waiting for the objection letter, then supplies had to be ordered to handle the extra micro testing. The experiment itself will take three weeks and will most likely take from 4 to 5 weeks over holiday weeks to keep from holding samples over a weekend. After the experiment is complete, organization of the data will take a week plus one more week will be needed to analyze and summarize the data and determine the amount of unavoidable moisture to achieve food safety requirements. Next each plant will have to develop a process control system to assure that they are not exceeding the unavoidable moisture level. This process could take over a month to fully and correctly develop. Once this is complete the plant will begin to measure retained moisture at packaging. Performing this process before packaging would be a waste of time. To be able to accurately calculate the amount of unavoidable moisture in a package, with a high level of confidence (greater than 95%) for a year of production, one year of data should be collected to take into account seasonal changes and differences. Once this data is collected it will take time to analyze this data to determine the 95% confidence for retained moisture at packaging. This does not take into account that this plant has two (2) months of packaging material in inventory that will need to be used and not lost. Also the fact that it can take several months for packaging suppliers to do the necessary work to produce new labels, and film. Putting stickers on boxes prior to receiving new labels is not an option. Not only does this require more labor expense to apply the sticker, they often fall off causing the plant to be held out of compliance. This could result in the plant being held in a recall situation or to be shut down.

The next issue is available laboratory space. Currently we do not do Salmonella spp. testing in the lab at the plant. These tests are sent out of the plant to another laboratory. Our plant labs are not equipped with the necessary equipment to do these tests nor do we have the necessary personnel to perform these tests. Equipment would have to be purchased and personnel would have to be hired and trained. This rule will require our lab to do 50 more E. coli samples per day than we are currently doing. These additional laboratory requirements will put a strain on space in our current lab.

The next issue concerns the amount of time needed to get new labels from the manufacturer to the plant. New labels require the manufacturer to produce new plates to make labels, print the new label, ship and deliver the new labels to the plant. This process will be a major problem for label manufacturers when over 400 plants need new labels at the same time.

The most effective and fair solution to these problems is the postponement of this rule. If this rule goes into effect, the result will be devastating to the industry and the consumer. This rule will have a negative effect on consumer prices as prices rise. I would hope that with concerns about our economy, terrorism and war, the last thing our economy needs is higher prices with nothing in return.

Given the time needed to effectively and economically collect data, print the necessary packaging materials will allow the industry to fully comply with this rule. Not being allowed to have the time to comply with this rule will result major problems. Again the most sensible solution is to postpone this rule and give the industry the time needed to fully comply.