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November 9, 2001

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VIA Fax#: 202-205-0080

FSIS Docket Room, (Docket #01-03 ON)
 U.S. Department of Agriculture, Food Safety and Inspection Service
 Room 102, Cotton Annex
 300 12th Street SW
 Washington, DC 20250-3700

01-030N
 01-030N-3
 Bill Lovette

Gentlemen:

I am writing to express my concerns regarding the timing of the enforcement of the new moisture labeling regulation for poultry products which is set for being effective on January 9, 2002. I am concerned that not enough time was allotted to properly determine the measurement criteria for moisture picked up in the chilling process.

It is my belief 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.
- After a protocol was developed and submitted, up to a fifth of the remaining time was spent waiting for a no objection letter.
- After receiving the no objection letter, supplies had to be ordered to handle the extra micro testing.
- Running the experiment will take a minimum of three weeks but could take four to five weeks over holiday weeks to keep from holding samples over a weekend.
- Organizing the data after the final test was conducted took a week.
- A minimum of a week is 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 they are not exceeding the unavoidable moisture level they 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 is required to take into account seasonal differences.

Therefore, postponement of enforcement is needed to properly address the above.

- 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.

Consumers will continue to be able to make choices for their proteins, the effect on their budgets would be minimized and they 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.

With that said, I propose that you postpone the January 9, 2002 enforcement date until adequate implementation methodology and procedures can be determined.

Sincerely,



Bill Lovette
President
Food Service Group

WWL:sn