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Robert E. Shipley

Date: June 29, 2001

To: FSIS Docket Clerk, Docket #01-045IF  
U.S. Department of Agriculture  
FSIS, Room 102, Cotton Annex  
300 12<sup>th</sup> Street, S.W. Washington, D.C. 20250-3700

From: Robert E. Shipley, President  
Squab Producers of California

Re: Mandatory Inspection of Ratites and Squabs

Congressional legislation (2001 Agriculture, Rural Development, Food and Drug Administration and Related Agencies Appropriations Act), signed by the President on October 28, 2000 directs that squabs be inspected under the PPIA effective April 26, 2001. The interim final rule published in the Federal Register on May 7, 2001 fails to carry out the intent of Congress and the President in this legislation, contains inaccuracies, and requires correction to properly achieve the intended result. Please consider the following comments and recommended corrections.

Our initial concern is that USDA's insertion into section 381.1 (b) of the statement: ... "squab, also termed young flightless pigeons" is incorrect, inconsistent with Congressional intent, and needs to be changed to "pigeons" in the permanent final rule. Congress intended to implement inspection for a species (pigeon) rather than only a specific age of a species (squab) with this legislation. The clear objective of Congress is to underscore its concern for the safety of the food that the American public consumes, by adding additional species to the definition of poultry. This is consistent with past practices, and it reflects consumption patterns in this country. It also reflects discussion between the agency, industry, and Congressional members leading to the legislation. The intent is quite clear per Representative Gary Condit's January 10, 2001 letter to Mr. Thomas Billy, Administrator, FSIS wherein he stated: "... all pigeons meant for human consumption - regardless of age - are intended to be covered under this section of law". Limitation to just one age of the targeted species as Representative Condit continues "... is contrary to Congressional intent..." since pigeons, just as with other species, both young and old, are consumed by the American public. This includes birds of both domestic and foreign origin. In fact, under the language of the interim rule, importers would be able to avoid compliance with more stringent regulations by merely indicating their birds have flown.

The definition of poultry (Part 381.1(b)) has traditionally included a list of domesticated **species** that are processed under conditions set forth in the Act. It was never considered nor addressed in the legislation that a new criterion be established such as the age of a species to be the basis of determining whether a bird is inspected or not. Age is commonly an issue in determining specific processing procedures or labeling due to differences of size, or carcass condition related to age. The interim final rule to implement this legislation has changed that by adding an age based criterion, rather than species. This creates a precedent, which was not even contemplated by Congress, and certainly not intended in the legislation.

We suggest that the USDA merely follow the lead of Congress and maintain a consistent standard for inspection determination, by inserting the species “pigeon” rather than the specific age pigeon (squab) in the existing definition of poultry in Section 381.1(b) as follows:

“*Poultry*” means any domesticated bird (chickens, turkeys, ducks, geese, guineas, ratites, or pigeons), whether live or dead.”

A second issue of concern is that the USDA interim final rule definition of a “squab” as “flightless” or “has never flown” is not correct in all cases, and is unenforceable. The term “squab” is the correct term for use in labeling the young, and the regulations must include this terminology as a stand-alone term for labeling (comparable to “cornish game hen”). We cannot, nor can USDA staff, however, through grower records, in-plant observation, or any other means reasonably determine whether a bird has ever flown. As well, a grower who restrains the wings (this has been done in some cultures historically) can create a “flightless” bird, which could be much older than a squab, yet still meet the interim USDA definition. This would conflict with the intent of the PPIA and the specific regulations establishing labeling accuracy standards for the consumer. The action of flying is not a defining moment, but rather the potential result of the maturation process of the pigeon. Wendell Levi, co-founder of Palmetto Pigeon Plant, in his book, *The Pigeon*, considered the most authoritative work on the species, defines squab as: “A “squab” is a young pigeon from one to about thirty days of age.” A comparable definition to this, which inspection personnel could confirm by feathering development and skin and breastbone condition in similar fashion to other species would better serve the purpose.

We appreciate your consideration of these comments. Please contact us if we can provide further information about this issue.