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November 9, 2001

FSIS Docket Room, (Docket #01-030N)
U.S. Department of Agriculture, Food Safety and Inspection Service
Room 102, Cotton Annex
300 12th Street SW
Washington, D.C., 20250-3700

Dear Sir or Madam:

The Management Staff at P-2186 is very pleased to take this opportunity to comment on the petition of August 17, 2001 asking FSIS to postpone the effective date of the new regulations limiting water retention in raw meat and poultry products (CFR 9 part 441.10).

To assist in your decision making process on this matter, we are responding to some of your questions relating to the petition.

1. "Did the Agency allow the regulated industry sufficient time (one year from publication of the final rule) to prepare for implementation?"

We contend that the time allotted is not sufficient in meeting the final rule. The rule is in fact a two-part rule. The initial step is to submit a protocol to the agency to show that any moisture gained through chilling was required to meet our food safety objectives. In order to submit the protocol, the system's operating parameters has to be determined. In addition, prior to submittal of such protocols, establishments awaited guidelines for the protocol, which were not received until about half of the implementation period had expired. The agency would need a substantial amount of time to review the protocol and the industry spent a substantial time waiting for a no objection letter. Once the protocol is approved, data will need to be collected on each single ingredient item to show how much of the water we gain in the chiller is retained at packaging. This in itself will in effect easily extend well beyond the time frame that the final rule gives us to meet the requirements. It would be irresponsible to our consumers for us to perform the data collection in the end of 2001 to establish labeling statements on retained water without considering or having analytical knowledge of the water retention in our products during other seasons within the year. We firmly ascertain that in order to accurately predict the amount of unavoidable moisture in a package with confidence over the year, one-year's worth of data collection is required to take into account seasonal differences. If not, we will be operating at a very high risk of misbranding and mislabeling our products by mandating water retention statements on our labels from data that at best would be scientifically arbitrary and capricious.

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

Yes, we believe that we would have several month's worth of labels on hand that we would not be able to use thus take a huge monetary loss, it would also take several months for our packaging supplier to get changed labels to us. Packaging changes involve a two-phase process: making of the new plate/ printing and delivery. If the agency has 30 days to review protocols from some 400 establishments then we can factually state that labeling companies will be requested to make thousands of new label plates.

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Finally, we along with the rest of the industry fully intend to comply with the rule and provide the consumer with retained water information. In order to do this, we should not be required to rubberstamp on all of our products moisture information based upon the amount of moisture retained on whole birds (the final rule, if not postponed, will force us to collect data on only whole birds because of time restraints and the ease of moisture data collection on whole birds). By postponing the effective date of meeting the final rule requirements, industry can responsibly provide accurate, scientifically validated, labeling information on all products. In addition the postponement will enable the industry to better use existing resources and labeling procedures to meet the requirements with sound science, control costs, continue to provide uninterrupted protein choices for the consumer, minimize the effect on the consumer's budget and enable the consumer to continue to make informed decisions based on the industries past level of performance, quality and value.

Respectfully submitted;

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