



Tyson Foods, Inc. P.O. BOX 8 • SHELBYVILLE, TENNESSEE 37162 • PHONE (931) 684-8180

November 16, 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

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Mark Harmon
Tom McCue
Larry Evans

Dear Sirs:

We would like to voice our support for the Citizen's Petition extending the effective date of the new moisture regulation. We feel the reasons for the postponement of the implementation of the regulation are valid and rational. Below is our response to the questions posed to the petition.

Question 1: Did FSIS allow sufficient time to prepare for implementation; why or why not?

Response: There was not enough time given to prepare for the implementation. About half of the implementation time had expired before guidelines for the first part of a two-part rule had been published. After a protocol was developed and submitted, up to one fifth of the remaining time was spent waiting for a no objection letter. After receiving the 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 or five weeks over the holiday period to keep from holding samples over the weekend. A minimum of a week is required for analyzing and summarizing the data in determining the unavoidable amount of moisture to achieve food safety. It will take at least a month for the plant to develop a process control program to assure we are not exceeding the unavoidable moisture level we need to maintain. After all of these steps we 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. It will also require some time to analyze the years worth of data to determine the 95% confidence for retained moisture packaging. At the present time we have 24 months of packaging on hand that must be used. It will take 1½ months for our packaging supplier to make and proof new plates and print new film or labels after the new information for labeling is obtained. We don't see placing labels as an option, as it requires more labor and stick on labels are notorious for falling off. This would open the plant up to being out of compliance and having to recall or shut down for economic adulteration.

Question 2: Is available laboratory space sufficient or insufficient?

Response: We may not have enough laboratory capacity, plus we must purchase additional equipment. This may also require additional personnel and training to perform dry matter determinations. This is above and beyond normal duties. According to Corporate policy we will discontinue doing Salmonella testing for safety reasons. This means we will have to send all Salmonella out. The corporate lab has estimated the time required for doing Salmonella testing at minimum 6 months. We currently perform 12 E. Coli samples per day and this testing will add an additional 50 per day.

Question 3: Is there additional information regarding the time to produce new labels, which should be considered?

Response: Yes, there is additional information to be considered. Packaging changes are at least a two-phase process. This process will consist of making new plates, printing and delivery of new labels. Also you have to consider label-making capacity. If 400 plants are requesting label changes at the same time, some plants will be behind other plants in priority or chronology.

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Question 4: Would postponement be fair or unfair to anyone and if so how?

Response: Postponement would be most fair to everyone. We feel that by not postponing the rule, it would effectively shut down the poultry industry eliminating a choice of proteins the consumer can purchase. This would also drive up the price of other proteins, affecting the consumer's budget. This would also affect other industries, such as trucking, advertising and government due to the tax revenue lost through job reductions caused by shutting down the industry.

Question 5: Would postponement affect the consumer and how?

Response: As we have already stated, postponement would be fair to everyone and of course fairest to the consumer. The consumer will continue to be able to make choices for their protein at a fair price with the quality of products remaining high based on the industries past level of performance, quality and value.

In conclusion, the industry intends to comply with the rule and provide the consumer with retained water information. To do this, the industry must have time to develop new procedures, collect and analyze data and print the packaging material required. Industry has realized that many of its products retain little to no water (i.e. deboned breast meat). If industry is not allowed time to collect data for the labeling of all parts, but forced to label all items with the amount of moisture retained in whole birds, would be a huge injustice. Whole birds are the easiest to collect data on, but they represent less than 10% of all products sold. This practice would drive some companies out of business, while economically impacting all poultry companies.

Respectfully,


Mark Harmon, Complex Manager


Tom McCue, Plant Manager


Larry Evans, QA Complex Manager

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