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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

November 9, 2001

To Whom It May Concern:

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01-030N-13
Mike Smith

I am the plant manager at Tyson Foods, Waldron Facility, I would like to join the petition filed by National Chicken Council, (NCC) the National Turkey Federation, (NTF) the American Meat Institute, (AMI) and the National Foods Processors Association, (NFPA) asking for an extension on the enforcement date of the moisture rule (January 9, 2002). This delay is needed due to the fact that the rule consists of two parts. The first part determining the equipment settings necessary to achieve the rule and the second part collecting data to show the level of naturally occurring moisture necessary to the process.

The proposed implementation date does not allow us enough time to prepare and collect data necessary to meet the requirements. This is in part due to the rule being published in two parts with only the second being issued after half of the implementation period had already expired. Additional time was lost submitting the protocol and waiting for a no objection letter. After approval of our protocol approximately one week will be needed to order the supplies for laboratory testing and three to four weeks (accounting for holidays) to collect samples. A minimum of one week to analyze and summarize the collected data and determine the unavoidable amount of moisture necessary to maintain food safety. We will then need a month to develop a process control program to assure we are not exceeding the unavoidable moisture level. After all of these steps have been taken we can begin measuring retained moisture at packaging. To do so before this point would be an exercise in futility. Furthermore, in order to accurately predict the amount of unavoidable moisture in a package with 95% confidence we will need to collect data for one year to measure seasonal differences. Some time will again be required to analyze the data collected over a year's time in order to predict with a 95% confidence level the retained moisture at packaging. We also have 3 months of packaging on hand that must be used prior to making the changes. Placing stickers on the packages prior to receiving new labels is not an option, it would require more labor and stick-on labels are prone to falling off, which would open the plant up to being out of compliance, and a possible recall or withdraw of inspection for producing and shipping product that is economically adulterated for mis-labeling.

I am also concerned with such a large number of plants requesting label changes and printing within such a short period of time that we will be unable to meet the proposed

deadline for the published moisture rule. Packaging changes are at least a two-phase process, the making of new plates and then the printing and delivery of new labels. Occasionally, even though we proof labels and have developed procedures for verifying changes, labels will be misprinted by the print shop due to an error. We visually inspect labels upon arrival to ensure they are correct, but if this were to occur it would further delay implementing the changes. With such a heavy volume being placed on print shops at the last moment it is not unreasonable to expect some plants will encounter this problem. There must be enough time to allow us to transition from old to new in order to avoid these mix-ups.

Based on all of the above reasons I have cited postponement of implementation of this rule would be most fair to everyone. By not postponing the rule we would effectively shut down the poultry industry, eliminating a choice of proteins the consumer can purchase. This would also adversely affect the consumer by driving up prices and cause a labor reduction within the industry. Other support industries would also be affected by this supply problem such as trucking, advertising and government due to the tax revenue lost through labor reductions caused by a slowing or shutting down of production process throughout the industry.

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 the print packaging material as required. Much of the products produced within the industry retain little or no water, for example deboned breast meat. If we as an industry are not allowed time to collect data for labeling of all parts, and are forced to label all types with the amount of moisture retained in whole birds, this 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 produced and sold. This would undoubtedly drive some companies out of business, while economically impacting all poultry companies.

Sincerely,



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