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11/12/01

Docket Clerk  
Food Safety and Inspection Service  
U.S. Department of Agriculture  
Room 102, 300 12th Street, SW  
Washington, D.C. 20250-3700

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01-030N  
01-030N-144  
Charles Link

**Re: Announcement of and Request for Comment on Industry Petition to Postpone the Effective Date of Regulations Limiting and Requiring Labeling for Retained Water in Raw Meat and Poultry Products: 66 Fed. Reg. 201, October 17, 2001 - FSIS Docket #01-030N**

Dear Madam:

Cargill Turkey Products, Inc. (Cargill) is the largest processor of turkey products in the United States. Cargill has 6 turkey processing plants that are impacted by this regulation. We therefore appreciate the opportunity to comment in response to the Food Safety and Inspection Service's (FSIS) request as it relates to the "Industry Petition to Postpone the Effective Date of Regulations Limiting and Requiring Labeling for Retained Water in Raw Meat and Poultry Products". As we feel the petition adequately addresses our concerns relative to the establishment of a realistic implementation date, our comments will focus on the five specific questions FSIS proposed in the announcement.

➤ ***Did FSIS allow sufficient time to prepare for implementation; why or why not?***

Cargill will make every effort to comply with the rule, but doing so will simply take much longer than USDA anticipated. The rule is considerably complicated in its implementation. To achieve compliance with the regulation, establishments must complete four separate tasks consecutively: 1) determine the amount of absorbed moisture that is an unavoidable consequence of meeting food safety requirements using an FSIS accepted protocol, 2) after receiving a "No Objection" letter from FSIS on the plant specific protocol, initiate determination of unavoidable absorbed moisture, 3) the amount of moisture retained by each product must be ascertained, and 4) new packages bearing the required declaration of moisture must be obtained from suppliers.

With regards to protocol development, in February of this year, industry representatives met with FSIS in Omaha, NB to discuss issues surrounding the protocol and clear up regulatory compliance concerns. As a result of this meeting the industry developed several generic protocols for FSIS review. These protocols were submitted on May 21, 01. Phil Derfler, FSIS responded on July 5, 01 stating: *"None of the protocols fully addressed the data collection and information required by the regulations"*. FSIS did not comment on the individual protocols, but rather developed their own model protocol and submitted it to the industry. Even with the model, there were questions that were still unresolved. Unfortunately, while this dialog proceeded, the timeline was rapidly moving forward. By August, we were still unclear on several issues regarding protocol development.

By September, Cargill was able to submit its' first protocol for review by FSIS. The review and ultimate approval took approximately one week. Following this approval, three more protocols, from sister plants were submitted for approval. One of the protocols was approved within one week. A second protocol was rejected and resubmitted to FSIS. Approval on this protocol took approximately 24 days. A third protocol, that was virtually identical to the other two, was submitted at the same time. The plant received a call from FSIS three weeks later requesting a change. The protocol was resubmitted by email the same day. Three days later, the plant received a call requesting more changes. These changes were made immediately and resubmitted to FSIS on the same day. FSIS indicated that the protocol letter would be written that day and sent back to the plant. Nineteen days later, we still have not received the approval letter from FSIS. This protocol has been in the system in excess of 43 days and is still not resolved. Unfortunately, our plants cannot proceed without this FSIS approval.

In order to adequately determine the absorbed and retained moisture in products, the products will have to be evaluated throughout the different seasons of the year. Moisture absorption and retention can vary dramatically from the summer months to the winter months. Additionally, Salmonella prevalence has been found to vary seasonally. The protocols will be tested for the next 12 months in order to provide the consumers with the most accurate information regarding retained moisture in products. As a result of this extensive analysis, we couldn't possibly be in position to label our products by January 9, 2002.

➤ ***Is available laboratory capacity sufficient or insufficient?***

USDA requires moisture retention to be justified as necessary to meet its food safety standards. This justification utilizes the presence of Salmonella on raw products as markers. Tests have to be conducted according to protocols approved by USDA for different chilling systems and different sizes of birds, since size affects the amount of moisture retained. As mentioned above, since there are seasonal variations in moisture absorption, data collection should be done over a one-year period to ensure the validity of moisture declarations on labels despite season. According to industry information, approximately 400 protocols will need to be approved and 600 microbiological tests conducted under each protocol for a total of 240,000 microbiological tests. Interestingly, in the first two years of HACCP implementation, FSIS only conducted 44,272 Salmonella analyses. The enormous number of tests will strain the capabilities of corporate and private laboratories.

Cargill has six turkey plants that are impacted by this regulation. With the increased number of microbiological analysis required by this rule, the two Cargill laboratories will not be able to handle the additional load. Cargill, along with the rest of the meat and poultry industry, will have to utilize commercial laboratories to complete this analysis. Cargill currently utilizes two separate commercial laboratories. Deibel Laboratories and Silliker Laboratories Group.

According to Mr. Jason Tisch, Assistant Manager, Deibel Laboratories, they would be forced to contract out the additional volume generated by the protocols and it would still likely take 10.5 months to complete the necessary analysis. In addition, the added tests "will limit the amount of research and development currently being conducted" by the laboratory.

Mr. Kurt Westmoreland of Silliker Laboratories Group, one of the largest laboratories, commented that, even though Silliker has eleven laboratories, the volume of tests required "would be very difficult to complete within the time frame." Moreover, this additional Salmonella testing would displace "other much needed food safety based testing."

➤ ***Is there additional information regarding the time to produce new labels, which should be considered?***

Once reliable data is obtained, i.e. following one year of data collection, the packaging for products will have to be changed to meet labeling requirements. There are two steps in implementing any label change: new plates have to be created and the actual labeled packages have to be printed/shipped. The majority of the labels are printed on the film package and not affixed by sticker.

Cargill has hundreds of labels that are affected by this rule. Depending on when Cargill is able to place orders with the packaging material vendors, making plate changes and printing new labels could take several months.

➤ *Would postponement be fair or unfair to anyone and, if so, how?*

Postponement would not be unfair to anyone. While some in the red meat industry can comply with the rule in less time, due to non-submersion chilling, it is simply not feasible for Cargill to comply by January 9, 2002. Denial of postponement would be unfair to Cargill and others in the industries that cannot comply on time. If we cannot comply by the implementation date, the plant would be, in essence, shutdown, causing major disruptions in commerce and jeopardizing thousands of jobs. Cargill is not trying to avoid the regulation but request the establishment of a realistic compliance date.

➤ *Would postponement affect consumers and, if so, how?*

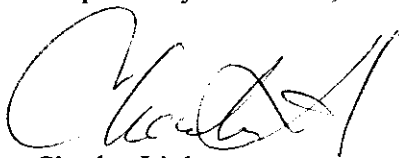
Postponement would have no effect on consumers. These products are the same today as they were in the 1960's when the moisture rules were first promulgated. Consumers will continue to have access to the same high quality, safe products they have become accustomed too receiving. Much more harm would be caused by a disruption in normal marketing of poultry products that may deny these products to consumers. Cargill intends to comply with the regulation and will continue to provide information to consumers via nutritional labeling and on retained moisture labeling as it becomes available.

**Conclusion:**

Cargill will make every effort to comply with the regulations regarding retained water. Unfortunately, we will not be in a position to comply by the January 9, 2002 implementation date. As outlined above, it will take Cargill 18 – 21 months from the time the protocol is approved to implement the labeling requirements of this rule.

We appreciate the opportunity to comment on this industry petition. If there are any questions, please do not hesitate to contact me directly.

Respectfully submitted,



Charles Link  
Director, Regulatory Affairs  
Cargill Turkey Products, Inc.