



PILGRIM'S PRIDE CORPORATION
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Docket Clerk
USDA-FSIS
300 12th Street, S.W.
Room 102 Cotton Annex
Washington, D.C. 20250

01-030N
01-030N-39
Joseph M. Pocius

Re: Docket No. 01-030N
"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"

Pilgrim's Pride is a national and international marketer of cooked and raw poultry products, both chicken and turkey. As a company, Pilgrim's Pride is the 7th largest marketer of chicken in the United States, the 2nd largest marketer of chicken in Mexico, and the 4th largest marketer of turkey in the United States.

Pilgrim's Pride submits these comments in response to FSIS's request for information regarding the extension of the effective date for mandatory labeling of retained moisture in raw, single ingredient meat and poultry items. In short, Pilgrim's Pride supports extending the effective date as described in the petition submitted by the National Turkey Federation, the National Chicken Council, the National Food Processors Association, and the American Meat Institute.

FSIS Questions

In FR vol. 66, no. 201 (Wednesday, October 17, 2001), FSIS listed five questions to which they required answers to support any decisions regarding extension of the effective date. Herewith, the Pilgrim's Pride Corporation (PPC) submits its answers to those questions.

- 1. Did the Agency allow the regulated industry sufficient time- one year from publication of the final rule- to prepare for implementation? Explain why the time for implementation was adequate or inadequate?**

No, given the time frames of information exchange between industry and agency the one-year implementation period was insufficient.

PPC has worked closely with the industry associations representing its interests in Washington. In fact, several of the protocols submitted by the associations to FSIS for comment and guidance were originated by PPC. It was not until July that comments were returned by the agency. Some of the protocols were rejected outright by FSIS and some only partially "non-objected to"; none were found to be acceptable. In short, this exercise showed that not only PPC but other industry members would have been unsuccessful in submitting protocols due to insufficient information and guidance provided by the agency at that time. It was not until the agency had provided feedback on the model protocols as well as additional Q&A information that industry began successfully submitting "non-objected to" protocols. In the case of PPC's Turkey Division, FSIS still took 29 of the allowable 30 days before returning a non-objection.

In our case, data could not begin to be collected under the protocol until October at the earliest. Since this time frame closely abutted the Thanksgiving season, this did not allow us time to complete the necessary database required to make practical decisions of process control and retained moisture control. In spite of all recriminations by non-poultry entities, the interests of our customers, consumers, and public owners are paramount. For without them, we have no reason to worry about, or consider compliance to, regulations. In the case of several of our chicken plants, non-objection letters were not received until November. Reasons for late submittal and late response are the same as for the Turkey Division.

In short, the necessary databases will not be completed before January 9, 2002. Furthermore, if the databases were completed, it would still take a minimum of 6 weeks for each new label to be printed. Pressure sensitive labels may be considered, however, data must first exist to determine what the label is to declare.

2. Is available laboratory capacity sufficient or insufficient to enable the industry to comply with the new regulations by the effective date?

The answer to this question is dependant on the individual plant protocol design. In the case of PPC, existing in-house resources as well as existing contracted resources will be minimally sufficient.

3. Is there adequate information on the time necessary to produce new labels for retained-water products that the Agency should consider?

As mentioned in question "1" above, each effected product label will take at least 6 weeks to print and deliver at the plant level (additional time will be required if entirely new printing plates need to be tooled). Each company has the potential to require several hundred label changes. Ordinarily, label changes are routine and may be done in an organized manner. However, when all submissions for change are sent in simultaneously from several industries, the existing label printing resources are taxed to the point of being inefficient and ineffective (as had happened during the FSIS emergency requirement for inclusion of safe handling requirements on all raw products).

4. Would postponement of the effective date be fair or unfair to anyone and, if so, how?

In terms of fairness to the poultry industries, lack of an extension has the regulatory potential of preventing untold volumes of product from moving into commerce. As such, it has the potential to close numerous plants, and companies, and to place many hard working individuals out of jobs; this at a time when the economy is documented to be in the beginning of a recession.

In terms of fairness to non-poultry entities, this issue has never been conclusively shown (i.e. outside of political arguments) to be unfair to anyone. The economic analysis that was circulated some years ago by non-poultry entities reflected simple arithmetic calculations without considering true economic factors. Furthermore, the profitability of non-poultry entities has recovered compared to past year's performances. This issue clearly does not, and perhaps never did, represent an unfair competitive condition.

5. Would postponement of the effective date of the new retained water regulations (9 CFR 441.10) affect consumers and, if so, how?

The poultry industries have never had the ability, nor has the agency ever allowed industry, to hide retained moisture from the consuming public. Purge is a common factor in packages of most raw single ingredient meat and poultry products. Informative labeling is in the consumer's advantage. However, a practical postponement of such labeling will not adversely affect the consumer either from a product wholesomeness standpoint or from an economic labeling standpoint.

PPC and other members of the poultry industries fully intend on complying with the tenets of the regulations as finalized. In particular, PPC has submitted its protocols, eventually received non-objection letters, and is actively collecting data under these protocols. Our intentions, and our actions, fully comply with the spirit of the regulation. As such, our consumers and customers are being served under existing regulation and will continue to be served under the new regulation.

In summary, Pilgrim's Pride agrees with, and supports, the petition to extend the effective date of the regulation. PPC does not believe the affected industries will be prepared to meet the implementation date of January 9, 2002 as published in the final rule.

If Pilgrim's Pride can be of additional assistance, or if there are any questions regarding these comments, please do not hesitate to contact us.

Respectfully Submitted,

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