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November 15, 2001

To: Docket Clerk, USDA-FSIS

From: Thomas L. Urban,
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01-030N
01-030N-40
Thomas L. Urban

Subject: Docket # 01-030N
Postponement of Retained Water Regulations

Docket Clerk,

This information is in response to the petition filed to extend the effective date of 9 CFR 441.10.

As an Agency member who works for the safety of the consumers in the poultry processing industry I have much insight which applies to this issue. I will first respond to the questions which were requested by the USDA to be addressed:

1. Did the Agency allow industry sufficient time to prepare for implementation?

Yes. The time frame is quite adequate. From September 1998 industry knew these changes were coming but did nothing. From January 2001 industry knew of the final rule but did nothing but to research for ways to avoid regulation. The members of industry I inspect have either completed most steps involved and will be quite ready at the date of January 9, 2001. Those which are not ready at this time have waited with hopes the petition will give them several more years of deceiving the consumer by selling them water not product. Such industry not ready will likely not attempt to be ready until threatened with suspension and complete the requirements at the last days.

2. Is available laboratory capacity sufficient for compliance by the effective date?

Yes. The facilities for the testing is more than adequate. Testing is done at many if not most establishments I have dealt with and such testing is not stretching the capabilities, in time or supplies, at the least.

3. Is there time to meet labeling requirements?

Not a problem. Labeling changes are often done in the establishment and can take only a matter of minutes. Elaborate changes in labeling is normally accomplished in a few days.

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

Postponement would be doing the consumer a great injustice. Postponement would be completely unfair to the red meat industry which has had to comply with a similar regulation for years. The poultry industry would greatly benefit, economically,

from the postponement through deceiving the consumers by selling them water, not product as they have in the past.

5. Would postponement affect consumers?

Most certainly. Consumers know that labeling requirements require the manufacturer to identify the product and its ingredients which the consumer is paying for. Water is an ingredient and must be listed. The consumer should know, as in the case of red meat products, just how much water as opposed to actual product they are paying for. Prior to July 1997 the maximum water allowed in poultry products was twelve percent. Since July 1997 there has been **no limit** to the amount of water industry could add to poultry product and sell to the consumer without informing the consumer.

Comments:

There are many arguments which can be raised in regards to postponing the implementation date of January 9, 2002. None of the arguments favor of postponement address public impact nor do they address the deception and economic cheating to the consumer. The arguments are solely underlined by the great economic impact which will be dealt to the industry, the impact of having to admit to the amount of product consumers are paying for and not receiving.

Prior to July 1997 the poultry industry has added up to twelve per cent water to product sold to consumers and never had to let consumers know. After July 1997 there has been no limit. The industry, in the petition, claims if no extension were granted it "could have an extremely adverse economic impact." This statement is completely true, for the industry, let us see how:

Current approximate wholesale price is \$.70/pound.

Approximate daily processed weight of an average large establishment is 545,000 pounds.

If a twelve per cent gain in water is added to the product that would add 65,400 pounds of water to sell.

65,400 pounds multiplied by \$.70/pound would mean \$45,780 per day of water such a company sells to the consumer instead of product.

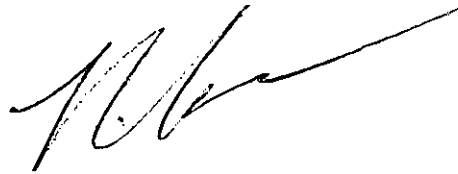
Multiply this extra profit to the industry by the amount of days the extension gives, approximately 660 days, and that figure is \$30,214,800.00 in excess water sold to the public which industry does not want to account for.

Many establishments are much larger, many are smaller. Economic impact would be great? Yes and no. The economics would remain the same, industry would only now be held accountable and have to declare just how much they are deceiving the consumer and now not be able to add more water than they state. This is opposite to what is currently in place, no limits.

Conclusion:

There are many ways industry can make things seem impossible in order to drag their feet to justify the unjust economic gains levied against the consumer. Industry will not close due to this implementation they will only be held accountable. Timeframes can be manipulated to fit one's needs such as the need for economic gain. In my opinion the

time frame is more than adequate. To give even six months more would be a great injustice to consumers. Would this extension satisfy industry? Most likely not. More ways to justify further extensions would come.

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