



Jennie-O Turkey Store
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FSIS Docket Room
USDA
Food Safety and Inspection Service
Room 102, Cotton Annex
301 12th Street SW
Washington, DC 20250-3700

HB

01-030N
01-030N-43
Jerry Jerome
Mike Benson

Re: Docket #01-030N

The following is the Jennie-O Turkey Store response to the FSIS request for comments on the petition for more time to implement the Retained Water Regulation.

The FSIS published the NTF/NCC/AMI/NFPA petition requesting a postponement of the effective date of regulations limiting the amount of water that may be retained by raw meat and poultry products on Oct. 17, 2001 in the *Federal Register*. The petition argues that the current Jan. 9, 2002 effective date does not allow sufficient time for companies to make required changes and asked FSIS to delay the effective date until Aug. 1, 2004.

The Retained Water Regulation will not permit meat and poultry carcasses and their parts to retain water unless it is an unavoidable consequence of processes used to meet food safety requirements. Products with retained water will be required to disclose this fact in their labeling.

In response to FSIS posed questions, the following comments are submitted.

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

Over 1000 labels are impacted by this regulation in our company alone. In order to comply with the rule it will take much longer and cost a great deal more than USDA anticipated. The rule is far more complicated in its implementation than the government expected. This is clearly documented in the NTF petition. Despite the complexity of the implementation of the rule, USDA did not release a sample protocol until July 5 of this year giving industry too little time to comply. Our protocol was approved on October 24. Due to the number and complexity of products, it is impossible for us to achieve what the government requires in the time allowed.

We have six different processing facilities. These different facilities process different mixes of toms, heavy hens, and light hens. In addition there are at least 17 different major primals which must be analyzed for naturally occurring moisture and retained moisture. Several different operational procedures (bone-in, boneless, ground, etc.) may be used to process each of

the primals. We will have to analyze over 2000 samples for protein, moisture, and fat and over 900 samples for E.coli.

To achieve compliance with the regulation, we 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) Receive a "No Objection" letter from FSIS on the plant specific protocol for determination of unavoidable absorbed moisture.
- 3) Determine the amount of moisture retained by each product.
- 4) Obtain new packages bearing the required declaration of moisture from suppliers.

2. Is available laboratory capacity sufficient or insufficient?

Tests have to be conducted according to protocols approved by USDA for the different chilling systems and different sizes of birds at each of our six plants. Size affects the amount of moisture retained. Since there are seasonal variations in moisture absorption, data collection should really be done over a one-year period to ensure the validity of moisture declarations on labels for all seasons of the year.

The enormous number of tests described above will strain the capabilities of our labs and require significant analysis by expensive private laboratories.

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

Once reliable data is obtained, 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. This is because the processing and storage of the products, such as frozen turkeys, makes it impossible for an adhesive to remain on the film. Based upon our initial estimates, more than 1,000 labels will need to be revised to declare moisture. In addition considerable time for design, tooling, and printing will be necessary.

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

Postponement would not be unfair to anyone. Denial of postponement would harm people in the industries that cannot comply on time. A shutdown of these industries would cause major disruptions in commerce and jeopardize thousands of jobs. The poultry industry is not trying to avoid the regulation but seeks to establish a realistic compliance date.

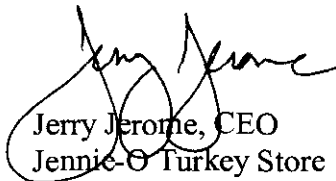
5. *Would postponement affect consumers and, if so, how?*

Postponement would have no effect on consumers because first and foremost, they would continue to have access to the same high quality, safe products available now. Secondly, no effort has been made to-date on the part of the Agency to educate consumers regarding this required label change. Much more harm would be caused by a disruption in normal marketing of poultry products that may deny these products to consumers. Further, providing information to consumers that they do not understand will only create confusion in the marketplace. The industry intends to comply with the regulation and provide information to consumers on retained moisture. Granting the industry sufficient time to correctly implement the rule would not affect consumers negatively.


In addition, security concerns and mail-handling problems caused by recent developments will certainly impact our timeliness.

We believe the extension requested by the NTF petition is necessary to allow adequate time to comply with this regulation.

Sincerely,



Jerry Jerome, CEO
Jennie-O Turkey Store



Mike Benson, Vice President, R&D
Jennie-O Turkey Store