DEPARTMENT OF AGRICULTURE

Food Safety and Inspection Service

9 CFR Parts 317 and 381

[Docket No. 94-029F]

Nutrition Labeling of Meat and Poultry Products; Codification

AGENCY: Food Safety and Inspection

Service, USDA. **ACTION:** Final rule.

SUMMARY: The Food Safety and Inspection Service (FSIS) is amending its final nutrition labeling regulations to provide codified language for provisions that previously cross-referenced those requirements contained in the final nutrition labeling regulations of the Food and Drug Administration (FDA) that FSIS adopted. FSIS is taking this action to provide complete codified language for the nutrition labeling of meat and poultry products in the regulations under 9 CFR parts 317 and 381. Full codification of the final FSIS nutrition labeling regulations will facilitate their use by improving their clarity and accessibility.

that the amendments to §§ 317.363 and 381.463 are effective on November 10, 1995. The incorporation by reference of Agriculture Handbook No. 74 (Slightly revised February 1973), pages 2, 3, 9–11, and 25, and the "Report of the Joint FAO/WHO Expert Consultation on Protein Quality Evaluation," Rome, 1990, sections 5.4.1, 7.2.1, and 8, contained in these regulations, is approved by the Director of the Office of the Federal Register as of January 3, 1995.

FOR FURTHER INFORMATION CONTACT: Charles Edwards, Director, Product Assessment Division, Regulatory Programs, Food Safety and Inspection Service, U.S. Department of Agriculture, Washington, DC 20250, (202) 254–2565.

SUPPLEMENTARY INFORMATION:

Background

FSIS published its final nutrition labeling regulations in the **Federal Register** on January 6, 1993 (58 FR 632). Corrections and technical amendments to this final rule were published on August 18, 1993 (58 FR 43787), and September 10, 1993 (58 FR 47624), respectively. The technical amendments, which were issued as an interim final rule, were confirmed as final on March 16, 1994 (59 FR 12157). FSIS also published a final rule on placement of nutrition labeling on meat and poultry products on August 8, 1994

(59 FR 40209), and a final rule with additional technical amendments to the nutrition labeling regulations on September 1, 1994 (59 FR 45189). Most of the changes FSIS made in the final rules pertaining to technical amendments and the placement of nutrition labeling on meat and poultry products were designed to parallel similar changes that FDA made to its nutrition labeling regulations. FSIS adopted certain changes made by FDA in cross-referenced provisions, in addition to amending certain of its own provisions to be consistent with those changes.

The codified portion of FSIS's final regulations published on January 6, 1993, cross-referenced provisions of FDA's regulations where the requirements are identical, and, for the most part, provided codified language only for those provisions where there are variations from FDA because of the different products that FSIS regulates. FSIS used cross-references in order to issue its final nutrition labeling regulations simultaneously with FDA on January 6, 1993. In the preamble to its final rule of January 6, 1993, FSIS said that it had received many comments which suggested that the Agency include all of the codified language for the nutrition labeling of meat and poultry products in the regulations under 9 CFR parts 317 and 381. The commenters stated that it is very difficult to go back and forth between FDA and FSIS regulations to look up different provisions for the nutrition labeling regulations. FSIS agreed with these comments and said it planned to publish the codified language in its entirety, while noting that future codification did not postpone the implementation date of the nutrition labeling regulations.

The Amendments

This document sets forth in entirety the codified language for previously cross-referenced nutrition labeling provisions. It includes all changes in the above-mentioned final rules as they apply to the cross-referenced provisions. Sections that contain cross-referenced provisions include those pertaining to the nutrition label content (serving sizes; mandatory and voluntary nutrients; and format requirements for the standard display, dual column display, and simplified format); Reference Amounts Customarily Consumed per eating occasion; general principles for nutrient content claims; nutrient content claims (claims for 'good source," "high," and "more"; "light" or "lite"; calorie content; sodium content; and fat, fatty acids, and

cholesterol content); and label statements for reducing or maintaining body weight.

In incorporating the previously crossreferenced provisions contained in 21 CFR, FSIS has made an effort to order the paragraphs and subdivisions, to the extent possible, in the same sequence as the comparable paragraphs and subdivisions in FDA's nutrition labeling regulations in 21 CFR. Accordingly, some existing paragraphs have been redesignated. FSIS believes that such consistency of presentation will be useful to interested parties who compare the FSIS and FDA provisions, and to those manufacturers producing both FSIS- and FDA-regulated products who refer to both agencies' regulations for nutrition labeling requirements.

FSIS is also making several amendments to sections of the nutrition labeling regulations (9 CFR part 317, subpart B, and part 381, subpart Y) that do not contain cross-referenced provisions to correct typographical errors, make minor editorial changes for clarity and accuracy, and reorder information in several paragraphs to improve clarity and readability. For example, in part 317, the terminology for "meat products" is changed, in most cases, to "meat or meat food products," which mirrors the statutory language contained in the Federal Meat Inspection Act. The term "product component" is changed to "food component" when it refers to a constituent of food whose declaration on product labeling is mandatory or voluntary under the regulations, and ingredients with specific food factors for calorie calculations. Cross-references within paragraphs in various sections of the nutrition labeling provisions are changed to conform with any redesignated paragraph that is the subject of the cross-reference. Units of measure and weights are, for the most part, abbreviated after their first appearance within a section.

FSIS provided provisions at 9 CFR 317.309(e)(2)(i) and 381.409(e)(2)(i) for use of an aggregate display of nutrition information on the outer label or labeling of products that contain two or more products in the same package. However, in 9 CFR 317.309(e)(2)(ii) and 381.409(e)(2)(ii) that specify the format requirements for the aggregate display, FSIS inadvertently provided that the identity of each food shall be specified immediately under the "Nutrition Facts" title. In fact, the identity of the food is placed to the right of the "Nutrition Facts" title as illustrated by a sample label for the aggregate display at 21 CFR 101.9(d)(13)(ii). FSIS is correcting this oversight in paragraphs 9