paragraph (c)(2)(iii) from "§ 317.309(e)" to "§ 317.309(d)(6)"; and by revising the words "at 21 CFR 101.9(d)(9)" in paragraph (c)(2)(v) to the words "in § 317.309(d)(9)."

## PART 381—POULTRY PRODUCTS INSPECTION REGULATIONS

18. The authority citation for part 381 continues to read as follows:

**Authority:** 7 U.S.C. 138F; 7 U.S.C. 450; 21 U.S.C. 451–470; 7 CFR 2.17, 2.55.

## §381.400 [Amended]

19. Section 381.400 is amended by adding the words "intended for human consumption and offered for sale" after the words "poultry products" in paragraph (a).

20. Section 381.409 is amended by revising the section reference in the fifth sentence of paragraph (h)(2) from "§ 381.409(b)" to "§ 381.409(c)" and revising paragraphs (a) through (g) to

## read as follows:

## § 381.409 Nutrition label content.

(a) All nutrient and food component quantities shall be declared in relation to a serving as defined in this section.

(b)(1) The term "serving" or "serving size" means an amount of food customarily consumed per eating occasion by persons 4 years of age or older, which is expressed in a common household measure that is appropriate to the product. When the product is specially formulated or processed for use by infants or by toddlers, a serving or serving size means an amount of food customarily consumed per eating occasion by infants up to 12 months of age or by children 1 through 3 years of age, respectively.

(2) Except as provided in paragraphs (b)(8), (b)(12), and (b)(14) of this section and for products that are intended for weight control and are available only through a weight-control or weightmaintenance program, the serving size declared on a product label shall be determined from the "Reference Amounts Customarily Consumed Per Eating Occasion—General Food Supply" (Reference Amount(s)) that appear in § 381.412(b) using the procedures described in this paragraph (b). For products that are both intended for weight control and available only through a weight-control program, a manufacturer may determine the serving size that is consistent with the meal plan of the program. Such products must bear a statement, "for sale only \_ program'' (fill in the through the blank with the name of the appropriate weight-control program, e.g., Smith's Weight Control), on the principal

display panel. However, the Reference Amounts in § 381.412(b) shall be used for purposes of evaluating whether weight-control products that are available only through a weight-control program qualify for nutrition claims.

(3) The declaration of nutrient and food component content shall be on the basis of the product "as packaged" for all products, except that single-ingredient, raw products may be declared on the basis of the product "as consumed" as set forth in § 381.445(a)(1). In addition to the required declaration on the basis of "as packaged" for products other than single ingredient, raw products, the declaration may also be made on the basis of "as consumed," provided that preparation and cooking instructions are clearly stated.

(4) For products in discrete units (e.g., chicken wings, and individually packaged products within a multiserving package), and for products which consist of two or more foods packaged and presented to be consumed together where the ingredient represented as the main ingredient is in discrete units (e.g., chicken wings and barbecue sauce), the serving size shall be declared as follows:

(i) If a unit weighs 50 percent or less of the Reference Amount, the serving size shall be the number of whole units that most closely approximates the Reference Amount for the product category.

(ii) If a unit weighs more than 50 percent but less than 67 percent of the Reference Amount, the manufacturer may declare one unit or two units as the serving size.

(iii) If a unit weighs 67 percent or more but less than 200 percent of the Reference Amount, the serving size shall be one unit.

(iv) If a unit weighs 200 percent or more of the Reference Amount, the manufacturer may declare one unit as the serving size if the whole unit can reasonably be consumed at a single eating occasion.

(v) For products that have Reference Amounts of 100 grams (or milliliter) or larger and are individual units within a multi-serving package, if a unit contains more than 150 percent but less than 200 percent of the Reference Amount, the manufacturer may decide whether to declare the individual unit as 1 or 2 servings.

(vi) For products which consist of two or more foods packaged and presented to be consumed together where the ingredient represented as the main ingredient is in discrete units (e.g., chicken wings and barbecue sauce), the serving size may be the number of

discrete units represented as the main ingredient plus proportioned minor ingredients used to make the Reference Amount for the combined product as determined in § 381.412(c).

(vii) For packages containing several individual single-serving containers, each of which is labeled with all required information including nutrition labeling as specified in this section (i.e., are labeled appropriately for individual sale as single-serving containers), the serving size shall be 1 unit

(5) For products in large discrete units that are usually divided for consumption (e.g., pizza, pan of poultry lasagna), for unprepared products where the entire contents of the package is used to prepare large discrete units that are usually divided for consumption (e.g., pizza kit), and for products which consist of two or more foods packaged and presented to be consumed together where the ingredient represented as the main ingredient is a large discrete unit usually divided for consumption, the serving size shall be the fractional slice of the ready-to-eat product (e.g., 1/8 quiche, 1/4 pizza) that most closely approximates the Reference Amount for the product category. The serving size may be the fraction of the package used to make the Reference Amount for the unprepared product determined in § 381.412(d) or the fraction of the large discrete unit represented as the main ingredient plus proportioned minor ingredients used to make the Reference Amount of the combined product determined in § 381.412(c). In expressing the fractional slice, manufacturers shall use 1/2, 1/3, 1/4, 1/5, 1/6, or smaller fractions that can be generated by further division by 2 or 3.

(6) For nondiscrete bulk products (e.g., whole turkey, turkey breast, ground poultry), and for products which consist of two or more foods packaged and presented to be consumed together where the ingredient represented as the main ingredient is a bulk product (e.g., turkey breast and gravy), the serving size shall be the amount in household measure that most closely approximates the Reference Amount for the product category and may be the amount of the bulk product represented as the main ingredient plus proportioned minor ingredients used to make the Reference Amount for the combined product determined in § 381.412(c).

(7) For labeling purposes, the term "common household measure" or "common household unit" means cup, tablespoon, teaspoon, piece, slice, fraction (e.g., ½ pizza), ounce (oz), or other common household equipment used to package food products (e.g., jar