

correct and not misleading to consumers. All poultry being marketed today have physical attributes that conform to the proposed class definitions. Thus, there is no need to establish entirely new poultry classes.

In addition to the proposed rule, FSIS considered the option of no rulemaking and the option of defining poultry classes using weight ranges in place of general maturity characteristics. Under the option of no rulemaking, the poultry class standards as defined in the FSIS regulations would remain in place. However, these definitions fail to take into account current poultry characteristics and poultry production practices, which have generally shortened the period of time required for birds to attain market-ready weights. Therefore, the usual ages of the birds stated in the current class definitions are inaccurate and, as a result, may mislead consumers. Without the proposed changes, FSIS's ability to enforce poultry class labeling claims is also not as effective.

At the suggestion of a trade organization and of an industry processor, FSIS considered using weight ranges to define turkey and roaster classes rather than age and general maturity characteristics. However, for turkey classes, FSIS did not believe that such a class system would accurately distinguish birds that differ significantly in product characteristics, such as meat tenderness and skin texture. Also, while some processors use the weight of the poultry they sell as part of their marketing program, except for Rock Cornish game hens, none of the poultry classes are based on weight. During early discussions with industry, a major processor that sells roasters suggested creating a weight requirement for this class of birds. However, information suggested that classifying roasters on the basis of weight was not an accepted practice by processors industry-wide. Therefore, the Agency has used age and general physical characteristics as the basis for the revised poultry class standards. Nevertheless, in this proposed rule, FSIS is soliciting comments on the merit of establishing ready-to-cook weight ranges for poultry classes.

Amending the poultry class definitions to better reflect the characteristics of poultry that is being marketed today will benefit consumers by ensuring that labels for poultry products are truthful and non-misleading. Companies, such as high volume food buyers, will also benefit because they refer to these classes in their purchase specifications to ensure that they receive products with the

appropriate characteristics. Because poultry class standards are used by AMS to define requirements for quality grades and in official U.S. government procurement specifications used to purchase products for the School Lunch Program and the military, updating the poultry class standards will benefit AMS by ensuring the legal sufficiency of these quality requirements and the procurement documents. This proposed rule will also enhance FSIS' ability to enforce poultry class labeling claims.

This proposed rule has the potential to raise prices somewhat for consumers. The most significant change in the proposed poultry classes is the definition changes for the broiler and roaster classes, and the effects of this change may be minimal. Roasters are generally \$.08 to \$.13 per pound more expensive than broilers. Because the typical age in the definition of roaster will be reduced from 3 to 5 months to less than 12 weeks, some birds that may have been sold as broilers under the less than 13 week age definition may be sold for higher price per pound as roasters. This change would result in a net transfer from consumers to producers. Assuming a 5 lb. dressed carcass, that is a price difference of \$.40 to \$.65 per bird. If such a change occurs, there would be no net social cost, but there would be redistributive impacts. FSIS has no information on and cannot estimate the potential for such changes. Because these birds have the general physical characteristics of roasters, they most likely are already being marketed as roasters rather than broilers. Thus, the proposed changes to the poultry class definitions may validate existing practices so that this cost effect should be minimized.

Effect on Small Entities

The Administrator, FSIS, has made an initial determination that this proposed rule will not have a significant impact on a substantial number of small entities, as defined by the Regulatory Flexibility Act (5 U.S.C. 601). The advancements in growing practices and technologies that have occurred since the original poultry class standards were developed are prevalent throughout the industry, regardless of the size of the entity. The proposed rule merely updates existing regulations to reflect current poultry characteristics and production practices used throughout the entire industry.

Executive Order 12988

This proposed rule has been reviewed under Executive Order 12988, Civil Justice Reform. This proposed rule (1) preempts all State and local law and

regulations that are inconsistent with this rule; (2) has no retroactive effect; and (3) does not require administrative proceedings before parties may file suit in court challenging this rule.

Paperwork Requirements

There are no paperwork or recordkeeping requirements associated with this proposed rule under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

Additional Public Notification

Public awareness of all segments of rulemaking and policy development is important. Consequently, in an effort to better ensure that minorities, women, and persons with disabilities are aware of this proposed rule, FSIS will announce it and make copies of this **Federal Register** publication available through the FSIS Constituent Update. FSIS provides a weekly Constituent Update, which is communicated via Listserv, a free e-mail subscription service. In addition, the update is available on-line through the FSIS web page located at <http://www.fsis.usda.gov>. The Constituent update is used to provide information regarding FSIS policies, procedures, regulations, **Federal Register** notices, FSIS public meetings, recalls, and any other types of information that could affect or would be of interest to our constituents/stakeholders. The constituent Listserv consists of industry, trade, and farm groups, consumer interest groups, allied health professionals, scientific professionals, and other individuals that have requested to be included. Through the Listserv and web page, FSIS is able to provide information to a much broader, more diverse audience.

For more information contact the Congressional and Public Affairs Office, at (202) 720–9113. To be added to the free e-mail subscription service (Listserv) go to the "Constituent Update" page on the FSIS Web site at <http://www.fsis.usda.gov/oa/update/update.htm>. Click on the "Subscribe to the Constituent Update Listserv" link, then fill out and submit the form.

List of Subjects in 9 CFR Part 381

Food grades and standards, Poultry and poultry products.

For the reasons set forth in the preamble, FSIS proposes to amend 9 CFR part 381 as follows:

PART 381—POULTRY PRODUCTS INSPECTION REGULATIONS

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