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Net Weight Labeling Proposal

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Net weight labeling of meats and poultry has become a controversial consumer issue since it was formally proposed by the USDA's Food Safety and Quality Service (FSQS) in December 1977. The principle features of the proposal are:

☐ Free liquids, juices, fats, and solids absorbed by the packaging material would be excluded from a product's net weight. Net weight would equal drained weight.

☐ The current allowance for moisture loss due to evaporation would be eliminated. The average weight for products from the same lot would be required to equal or exceed the labeled net weight. Single packages, however, would be permitted actual weights below the labeled weight by a specified amount.

☐ Federal net weight standards would be established for bulk shipments or wholesale-sized packages.

☐ An FSQS approved net weight quality control program would be required at most federally inspected meat and poultry plants.

Consumer groups generally support the proposal. Since there is large variability in the amount of drained liquid within and between specific cuts of meat and poultry, consumer groups feel that the shopper is unable to make accurate value comparisons among products at the retail level.

State and local officials have two concerns with the issue. One problem deals with enforcement, the other is procedural. Since, under current regulations, allowances for moisture loss are not defined, many officials feel that enforcement of a net weight standard under current law is difficult. They cannot know whether a particular minus variation is due to evaporation or deliberate shortweighting. The proposed regulation would solve that problem. On the other hand, the move to a drained weight definition of tare weight[1] means more time spent on actual inspection procedures, since packages must be opened to determine the drained weight.

Producer groups generally oppose the proposed regulations. They argue that the price of their products will increase substantially to compensante for the amount of "overpack" necessary to meet the new requirements. They also feel that mandatory quality control will be costly to the consumer. Retailer groups oppose the new drained weight definition because it requires the opening of packages in the store during inspections by local officials. The cost of repacking the products could fall to the retailer as a business cost. Some industry people also fear a loss of sales as a result of the proposed change. Products with a large amount of free liquid would appear more expensive since the reported price per pound would be increased.

Background

In 1973, a U.S. District Court in California ruled that States could not impose stricter inspection procedures on meat and poultry from Federally inspected plants than provided for in Federal regulations. The Wholesome Meat Act of 1967 and Wholesome Poultry Act of 1968 provides the USDA with the authority to regulate the net weight of shipments of meat and poultry products after they leave the plant and until sale to the ultimate consumer. Current regulations under those Acts require that the labeled weight of meat or poultry products cannot be false or misleading and must express an accurate statement of the contents of the container exclusive of the packaging materials. Federal regulations also now provide for "reasonable variations" from that weight which may be the result of gain or loss of moisture which are unavoidable during food manufacturing procedures.

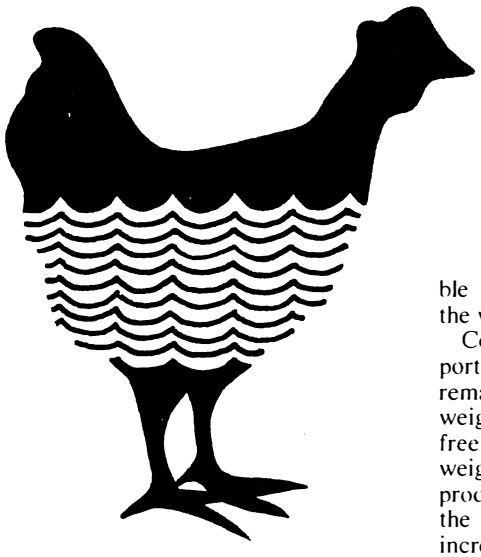
The authority to determine and enforce net weight compliance at warehouses and retail stores is given to individual State and local weights and measures officials. Some States and localities have more stringent net weight standards than the Federal regulations in that they do not allow for variations caused by moisture loss during distribution. After the California case, these standards became impossible to enforce. In 1977 the Supreme Court affirmed the California District Court's Ruling.

Following that affirmation, California filed a petition, cosigned by 47 other States, requesting that USDA change its net weight regulations. In response to that petition and to consumer complaints of excess fluid in packages, FSQS proposed the net weight labeling regulations for meat and poultry products in the *Federal Register* on December 2, 1977 (vol. 42, #232).

After the proposal appeared in the *Federal Register*, public comments were received. There was widespread disagreement concerning both the need for the proposal and its economic impact. The Consumer Federation of America[2] was awarded a contract to provide an analysis of the proposal. In addition, the House Committee on Agriculture requested that the General Accounting Office (GAO) evaluate the proposal and consider

[1] *Tare* is the term used to refer to those parts of a product whose weight is not included in the labeled net weight. Dry tare is the weight of the dry packaging material before the product is packaged. Drained weight tare includes the used packaging material plus all absorbed as well as free liquid.

[2] Consumer Federation of America, "Analysis of Proposed Regulations on Net Weight Labeling," October 1978.



the feasibility of alternative systems. The December 1978 GAO report[3] recommended that USDA conduct additional analysis concerning the best way to monitor net weight labeling activities.

Following submission of that report, USDA's ESCS was asked to review the available evidence and provide its own assessment of the need for the proposal and the potential economic impact. In making its evaluation, ESCS took into consideration the two main objectives to be achieved by the proposal. First, to insure that the weight of usable meat and poultry purchased by consumers is at least equal to the weight stated on the package, and second, to enable States to enforce strict net weight standards at retail.

Study Results

The USDA study concludes that the proposal would succeed in achieving the objectives defined by FSQS. However, the study also concludes that the second objective could probably be accomplished as effectively under a system that allows free liquid as part of the product's net weight.

The study also concludes that the effects of the proposed rule change have been misunderstood by both consumers and producers. The amount of drained weight meat available for sale is constant regardless of the way in which tare is defined.

Consumers cannot expect the reported price per pound of product to remain unchanged if the drained weight rule results in the exclusion of free liquids from reported product weights. In the case of random weight products (such as whole chickens), the labeled price per pound would increase, but the labeled weight would decrease by an offsetting amount. The price consumers pay for usable product would remain unchanged. In the case of fixed weight products (such as bacon), some packers might have to increase the product to make weight at time of purchase equal the fixed weight on the label. The per-package cost to consumers would be higher. However, because consumers would be receiving more usable product, the real price per pound would remain unchanged.

Contrary to contentions of many producers, actual producer costs are not increased because of the change in tare. For random weight packages, the weight and price per pound will simply be adjusted to remove the weight of the free liquid; processing costs per drained weight pound are unaffected. In the case of fixed weight packages, some processors will admittedly need to add more product to each package. But, because the amount of drained weight meat is not affected by a labeling rule, there will actually be fewer fixed weight packages processed. Again, processing costs per drained weight pound are unaffected.

Drained Weight

The main benefit of a drained weight system would be to increase the accuracy of the information available in the marketplace for all meat and poultry products. Consumers would be better able to make per pound price comparisons. And producers would not be competitively disadvantaged by those who use techniques that result in a higher proportion of free liquid to usable product. Producers of products that have relatively less free liquid would no longer be placed at a competitive disadvantage by net weight rules which now allow counting drained liquids as part of the product's weight. Finally, the buyers of bulk packed products will have a clearer standard for checking weights of the shipments they receive.

Predicting the net effect on total consumer expenditures for meat and poultry products is complicated since consumer responses to the change in product information provided by net weight labeling are uncertain. If consumers have been appropriately discounting the free liquid, there should be no net effect. However, if the reported price per pound under current net weight rules has been accepted as an accurate reflection of relative product value, consumers may shift to products that based on the labeled price per pound appear to become relatively less expensive as a result of the proposed change.

The quality control requirements of the proposal would increase industry costs $59 to $116 million, mostly due to the need to hire additional personnel. However, assuming that the largest potential cost of quality control would be passed on to consumers, the increase in price per pound would be less than one-half of 1 cent.

There may be additional costs to State and local governments for new equipment needed to enforce the new regulations and these costs most likely would have to be absorbed in current budgets. Also, there would be additional costs to retailers who would have to repackage packages opened during inspection.□

[3]General Accounting Office, "Proposed Changes in Meat and Poultry Net Weight Labeling Regulations Based on Insufficient Data," CED-79-28, December 20, 1978.

Single copies of the final report can be obtained by writing the authors at: Food Economics, ESCS/NED, 500 12th Street, S.W., Washington, D.C. 20250.