

4626.0400 DATE MARKING; READY-TO-EAT TCS FOOD. 3-501.17

A. (1) This part does not apply to items E and F or to food packaged using a reduced oxygen packaging method as specified in part 4626.0420.

(2) Refrigerated, ready-to-eat TCS food prepared and held in a food establishment for more than 24 hours must be clearly marked using an effective method to indicate the day or date by which the food must be consumed on the premises, sold, or discarded, which is 7 calendar days or less from the date of preparation. The date of the preparation must be counted as day 1.^{p2}

B. Refrigerated, ready-to-eat TCS food prepared and packaged by a processing plant and opened and held for more than 24 hours must be clearly marked using an effective method to indicate the day or date by which the food must be consumed on the premises, sold, or discarded, which is 7 calendar days or less from the date the original container is opened;^{p2} and

(1) the date the original container is opened in the food establishment must be counted as day 1;^{p2} and

(2) the day or date marked by the food establishment must not exceed the manufacturer's use-by date.^{p2}

C. A refrigerated, ready-to-eat TCS food ingredient or a portion of a refrigerated, ready-to-eat TCS food that is subsequently combined with additional ingredients or portions of food must retain the date marking of the earliest-prepared or first-prepared ingredient.^{p2}

D. A date marking system that meets the criteria in items A and B may include:

(1) using a method approved by the regulatory authority based on meeting the requirements of this part for refrigerated, ready-to-eat TCS food that is frequently rewrapped, such as lunchmeat or a roast, or for which date marking is impractical, such as soft-serve mix or milk in a dispensing machine;

(2) marking the date or day of preparation, with a procedure to discard the food on or before the last date or day by which the food must be consumed on the premises, sold, or discarded as specified in item A;

(3) marking the date or day the original container is opened in a food establishment, with a procedure to discard the food on or before the last date or day by which the food must be consumed on the premises, sold, or discarded as specified in item B; or

(4) using calendar dates, days of the week, color-coded marks, or other effective marking methods, provided that the marking system is disclosed to the regulatory authority upon request.

E. Items A and B do not apply to individual meal portions served or repackaged for sale from a bulk container upon a consumer's request.

F. Items A and B do not apply to shellstock.

G. Item B does not apply to the following foods prepared and packaged by a food processing plant inspected by a regulatory authority:

- (1) deli salads, such as ham salad, seafood salad, chicken salad, egg salad, pasta salad, potato salad, and macaroni salad, manufactured according to Code of Federal Regulations, title 21, part 110;
- (2) hard cheeses containing not more than 39 percent moisture such as cheddar, gruyere, parmesan reggiano, and romano, as defined in Code of Federal Regulations, title 21, part 133;
- (3) semi-soft cheese containing more than 39 percent moisture, such as blue, edam, gorgonzola, gouda, and monterey jack, but not more than 50 percent moisture, as defined in Code of Federal Regulations, title 21, part 133;
- (4) cultured dairy products such as yogurt, sour cream, and buttermilk, as defined in Code of Federal Regulations, title 21, part 131;
- (5) preserved fish products, such as pickled herring and dried or salted cod, and other acidified fish products defined in Code of Federal Regulations, title 21, part 114;
- (6) shelf-stable, dry fermented sausages, such as pepperoni and Genoa salami; and
- (7) shelf-stable salt-cured products such as prosciutto and Parma (ham).

Statutory Authority: *MS s 31.101; 31.11; 144.05; 144.07; 144.08; 144.12; 157.011*

History: *23 SR 519; 43 SR 295*

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