

(Effective March 1, 2022.)

WAC 246-215-03526 Temperature and time control—Ready-to-eat, time/temperature control for safety food, date marking (FDA Food Code 3-501.17).

(1) Except when PACKAGING FOOD using a REDUCED OXYGEN PACKAGING method as specified under WAC 246-215-03540, and except as specified in subsections (5) and (6) of this section, refrigerated, READY-TO-EAT, TIME/TEMPERATURE CONTROL FOR SAFETY FOOD prepared and held in a FOOD ESTABLISHMENT for more than twenty-four hours must be clearly marked to indicate the date or day by which the FOOD must be consumed on the PREMISES, sold, or discarded when held at a temperature of 41°F (5°C) or less for a maximum of seven days. The day of preparation must be counted as day one.

(2) Except as specified in subsections (5) through (7) of this section, refrigerated, READY-TO-EAT, TIME/TEMPERATURE CONTROL FOR SAFETY FOOD prepared and PACKAGED by a FOOD PROCESSING PLANT must be clearly marked, at the time the original container is opened in a FOOD ESTABLISHMENT and if the FOOD is held for more than twenty-four hours, to indicate the date or day by which the FOOD must be consumed on the PREMISES, sold, or discarded, based on the temperature and time requirements specified in subsection (1) of this section and:

(a) The day the original container is opened in the FOOD ESTABLISHMENT is counted as day one; and

(b) The day or date marked by the FOOD ESTABLISHMENT may not exceed a manufacturer's use-by date if the manufacturer determined the use-by date based on FOOD safety.

(3) A refrigerated, READY-TO-EAT, TIME/TEMPERATURE CONTROL FOR SAFETY FOOD ingredient or a portion of a refrigerated, READY-TO-EAT, TIME/TEMPERATURE CONTROL FOR SAFETY FOOD that is combined with additional ingredients or portions of FOOD must retain the date marking of the earliest-prepared or first-prepared ingredient.

(4) A date marking system that meets the criteria stated in subsections (1) and (2) of this section may include:

(a) Using a method APPROVED by the REGULATORY AUTHORITY for refrigerated, READY-TO-EAT, TIME/TEMPERATURE CONTROL FOR SAFETY 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;

(b) 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 under subsection (1) of this section;

(c) 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 under subsection (2) of this section; or

(d) 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.

(5) Subsections (1) and (2) of this section do not apply to individual meal portions served or REPACKAGED for sale from a bulk container upon a consumer's request.

(6) Subsections (1) and (2) of this section do not apply to SHELL-STOCK.

(7) Subsection (2) of this section does not apply to the following FOODS prepared and PACKAGED by a FOOD PROCESSING PLANT inspected by a REGULATORY AUTHORITY:

(a) Deli salads, such as ham salad, seafood salad, chicken salad, egg salad, pasta salad, potato salad, and macaroni salad, manufactured in accordance with 21 C.F.R. 110 Current Good Manufacturing Practice in Manufacturing, Packing, or Holding Human Food;

(b) Hard cheeses containing not more than thirty-nine percent moisture as defined in 21 C.F.R. 133 Cheeses and Related Cheese Products, such as cheddar, gruyere, parmesan and reggiano, and romano;

(c) Semi-soft cheeses containing more than thirty-nine percent moisture, but not more than fifty percent moisture, as defined in 21 C.F.R. 133 Cheeses and Related Cheese Products, such as blue, edam, gorgonzola, gouda, and monterey jack;

(d) Cultured dairy products as defined in 21 C.F.R. 131 Milk and Cream, such as yogurt, sour cream, and buttermilk;

(e) Preserved FISH products, such as pickled herring and dried or salted cod, and other acidified FISH products defined in 21 C.F.R. 114 Acidified Foods;

(f) Shelf stable, dry fermented sausages, such as pepperoni and genoa; and

(g) Shelf stable salt-cured products such as prosciutto and parma ham.

[Statutory Authority: RCW 43.20.050 and 43.20.145. WSR 21-01-122, § 246-215-03526, filed 12/15/20, effective 3/1/22.]