

**Conference for Food Protection
2016 Issue Form**

Issue: 2016 III-029

Council Recommendation:	Accepted as Submitted _____	Accepted as Amended _____	No Action _____
Delegate Action:	Accepted _____	Rejected _____	

All information above the line is for conference use only.

Issue History:

This is a brand new Issue.

Title:

Acidified Food Date Marking Exemption

Issue you would like the Conference to consider:

In the 2013 FDA Food Code, DATE MARKING is exempt under Section 3-501.17 (G) for specific FOODS prepared and PACKAGED by a FOOD PROCESSING PLANT inspected by a REGULATORY AUTHORITY. For example, this exemption allows for foods such as deli salads manufactured under 21 CFR 110 Current Good Manufacturing Practices and for Preserved FISH products, such as pickled herring and dried or salted cod, and other acidified FISH products defined in 21 Code of Federal Regulation (CFR) 114 Acidified foods, to not require date marking. Although, other canned food items that are manufactured per both 21 CFR 110 and 114 are not included in the list of exemptions. Therefore, it is unclear in the Food Code whether or not food items that are typically known to be acidified or naturally acidic such as fruit juices, canned food vegetables and fruit (olives, jalapenos, pepper rings, etc), and mixed products (salsa, salad dressings, ketchup) labeled as "Keep Refrigerated After Opening" require date marking. The retail food industry and regulators do not have a method to determine whether a food labeled with "Refrigerate after opening" is a quality or safety issue without further proof that these foods meet the Food Code Table A or B under Time/Temperature Control for safety.

Public Health Significance:

With new manufacturing processes, recipes, and formulations, it is not always clear whether or not a manufactured food is defined as TCS and requires date-marking along with temperature control after opening. This is especially true if the packaging contains directions to "Refrigerate after Opening", making it difficult for regulators during routine inspections to determine whether food require both time and temperature control. To avoid the onus of investigating the quality versus safety of time/temperature control to each individual food establishment, an added exemption for date marking acidified foods is warranted. This would lessen the impact to the retail food industry and the inconsistent regulations of these types of food items. The Food Code already exempts certain food items such as deli salads, hard cheeses, semi-soft cheeses, cultured dairy products,

preserved fish products, and other dry fermented or salt-cured meats, which all still require temperature control. Adding Food items that have been prepared and packaged per CFR 114 in a Food Processing Plant inspected by a Regulatory Authority to the date marking exemption would be of no greater public health threat than the previously listed food items under 3-501.17 (G)

Recommended Solution: The Conference recommends...:

a letter be sent to the FDA requesting the 2013 Food Code be amended as follows (language to be added is underlined):

Section 3-501.17 (G):

(G) Paragraph (B) of this section 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 in accordance with 21 CFR 110 Currentgood manufacturing practice in manufacturing, packing, or holding human food;
- (2) Hard cheeses containing not more than 39% moisture as defined in 21 CFR 133 Cheeses and related cheese products, such as cheddar, gruyere, parmesan and reggiano, and romano;
- (3) Semi-soft cheeses containing more than 39% moisture, but not more than 50% moisture, as defined in 21 CFR 133 Cheeses and related cheese products, such as blue, edam, gorgonzola, gouda, and monterey jack;
- (4) Cultured dairy products as defined in 21 CFR 131 Milk and cream, such as yogurt, sour cream, and buttermilk;
- (5) Preserved FISH products, such as pickled herring and dried or salted cod, and other acidified FISH products defined in 21 CFR 114 Acidified foods;
- (6) Shelf stable, dry fermented sausages, such as pepperoni and Genoa; and
- (7) Shelf stable salt-cured products such as prosciutto and Parma (ham).
- (8) Packaged acidified food items, such as salad dressings, salsas, fruits, vegetables, etc. that have been manufactured in accordance with 21 CFR 114 Acidified Foods.

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