

**Conference for Food Protection
2016 Issue Form**

Issue: 2016 I-034

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:

Interpretation of Food Code Section 3-501.17 (A) & (B)

Issue you would like the Conference to consider:

When a Ready-to-Eat (RTE); Time/Temperature Control for Safety (TCS) food is prepared and held for more than 24 hours, the 2013 FDA Food Code requires that the product be properly Date Marked. It can be held for those 24-hours plus up to six additional days for a total of seven (7) days from the time it was prepared or from the time the original package was opened (in the case of commercially prepared food). By the end of 7-days, the food must either be used or discarded.

The language, "...date or day by which food shall be consumed, sold or discarded when held for a maximum of 7-days," found in Sections 3-501.17 (A) & (B) of the 2013 FDA Food Code is being variously interpreted by regulatory authorities. Consider this example: A facility that is a 24 hour operation prepares a RTE/TCS food at 11:00 pm on 1/1/16. It should not have to discard that food until 11:00 pm on 1/7/16. The product specifically has 24 hours from the precise time it was prepared (or opened) and then six (6) more days before it has to be fully used or discarded. The current language in the 2013 FDA Food Code is being interpreted by some regulators to mean that the food has to be discarded on 1/7/16 without regard to its actual "preparation time." This leads to confusion among operators and the unnecessary premature discard of food that has not yet reached the limit of its full 7-day shelf life.

On this basis, facilities are being given violations on health inspections and food is being wasted. For clarity, the terms "date or day" should be defined in the context of a 24-hour period of time and the calculation of 7-days should include the time-of-day as well as the date or day that the food is prepared or opened.

Public Health Significance:

With the designation of a specific time being placed on the Date Marking Label, it would allow both regulators and the food service facility to have a specific time line in which the RTE/TCS food would have to be properly discarded as required under Section 3-501.17 (A)

& (B) of the 2013 FDA Food Code and therefore less opportunity for miss-information pertaining to time line, date, and possible violation of this section.

Recommended Solution: The Conference recommends...:

that a letter be sent to the FDA requesting an interpretation that clarifies/explains the terms "date or day" in Section 3-501.17 (A) & (B) of the 2013 Food Code to better define a day as a 24 hour period of time with respect to the protocols for Date Marking. The Conference further requests that that the final interpretation document be posted to the FDA Food Code Reference System.

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