

**Conference for Food Protection  
2018 Issue Form**

**Issue: 2018 I-026**

**Council Recommendation:** Accepted as Submitted \_\_\_\_\_ Accepted as Amended \_\_\_\_\_ No Action \_\_\_\_\_

**Delegate Action:** Accepted \_\_\_\_\_ Rejected \_\_\_\_\_

*All information above the line is for conference use only.*

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**Issue History:**

This issue was submitted for consideration at a previous biennial meeting, see issue: 2016 I-036; new or additional information has been included or attached and the recommended solution has been revised.

**Title:**

Amend Food Code - Add Time/Date Together as a Method of Date Marking

**Issue you would like the Conference to consider:**

We would like the CFP to consider amending the most current published edition of the Food Code by adding the FDA clarification from the Food Code Reference System and contained in "Using exact times when date marking (002)<sup>1</sup>, confirming that using time in combination with a date to capture the exact 7-day period that is based on a 24 hour/day interval as an acceptable date marking system. This allows a retailer to better control food waste by following the intent of the regulation while maintaining the safety of public health.

Because the Food Code is not clear, use of time/date combinations has been identified as a violation. By adding the clarification to the Food Code it will eliminate the need to formally address this with the regulatory authority as a repeat violation and to prevent the potential of incurring re-inspection fees.

**Public Health Significance:**

The addition of the clarification revision will not impact public health.

**Recommended Solution: The Conference recommends...:**

that a letter be sent to the FDA requesting the most current published edition of FDA Food Code be amended as follows (new language is underlined):

Section 3-501.17(D) subsection (4)

(4) Using calendar dates, days of the week, color-coded marks, time in combination with the date, or other effective marking methods, provided that the marking system is disclosed to the REGULATORY AUTHORITY upon request.

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**Supporting Attachments:**

- "Using exact times when date marking"

*It is the policy of the Conference for Food Protection to not accept Issues that would endorse a brand name or a commercial proprietary process.*



Reference Document: 2013 Food Code, with Supplement to the 2013 Food Code

Provision(s): 3-501.17

Document Name: Use of a specific time-of-day when date marking ready-to-eat time/temperature for safety food

Date: August 2, 2017

Question: Does Section 3-501.17 of the Food Code prevent including a specific time-of-day when date marking ready-to-eat time/temperature for safety food with the date or day by which the food is to be consumed on the premises, sold, or discarded?

Response:

No, Section 3-501.17, Ready-to-Eat, Time/Temperature Control for Safety Food, Date Marking, of the 2013 Food Code does not prevent, nor specify, including a specific time-of-day when date marking ready-to-eat (RTE) time/temperature control for safety (TCS) food with the date or day by which the food is to be consumed on the premises, sold, or discarded.

Section 3-501.17 specifies that RTE/TCS food, prepared in a food establishment and held longer than a 24-hour period, or commercially prepared and opened in a food establishment and held longer than a 24-hour period, shall be marked to indicate the date or day by which the food is to be consumed on the premises, sold, or discarded when held at a temperature of 5°C (41°F) or less for a maximum of 7 days. These time/temperature parameters are intended to help control for growth of *Listeria monocytogenes*. The day of preparation, as specified in paragraph 3-501.17(A), or the day the package is opened, as specified in paragraph 3-501.17(B), is counted as Day 1.

While not specified in section 3-501.17, a food establishment may choose to include a specific time-of-day when marking a food with the date or day by which the food is to be consumed, as described in paragraphs 3-501.17(A) and (B), in order to capture the exact 7-day period, based on a 24 hour/day interval.

*The FDA Food Code is neither federal law nor federal regulation and is not preemptive. It represents FDA's best advice for a uniform system of regulation to ensure that food at retail is safe and properly protected and presented. The FDA Food Code provisions are designed to be consistent with federal food laws and regulations, and are written for ease of legal adoption at all levels of government.*

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References:

1. 2013 Food Code, Section 3-501.17 Ready-to-Eat, Time/Temperature Control for Safety Food, Date Marking, Report Number 2013-110462.
2. Supplement to the 2013, Food Code, Section 3-501.17 Ready-to-Eat, Time/Temperature Control for Safety Food, Date Marking, Report Number PB2015-104921

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