



ODA Director
Fred L. Dailey

Ohio Department of Agriculture & Ohio Department of Health

• LETTER OF OPINION •



ODH Director
J. Nick Baird, M.D.

To: Health Commissioners, Environmental Health Directors, Nursing Directors, ODA Food Safety Specialists, and Other Interested Parties

Subject: **LETTER OF OPINION #2002-01**

Date: January 23, 2002

Media Contact: [Paul Panico](#), ODA Chief of [Food Safety](#), (614) 728-6250

Date Marking of Ready-to-Eat, Potentially Hazardous Food

This "Letter of Opinion" was reviewed and recommended by the [Retail Food Safety Advisory Council](#) at their January 23, 2002 meeting.

The *Ohio Uniform Food Safety Code* in rule 3717-1-3.4(G) addresses the date marking of ready-to-eat, potentially hazardous food in accordance with the *1999 FDA Model Food Code*. Date marking requirements apply to containers of processed food from a manufacturer once they have been opened, as well as to food prepared by a retail food establishment or food service operation, if held for more than 24 hours from the time of opening or preparation. The date marking requirements specify that the containers be marked with a "consume by" date and if not consumed by that date – discarded.

Grocery stores and similar operations have traditionally used a "sell by" date instead of a "consume by" date and their concerns have been relayed to the FDA. The *2001 FDA Model Food Code* has addressed this issue by replacing the phrase "to indicate the date by which the food shall be consumed" with the phrase "to indicate the date or day by which the food shall be consumed on the premises, sold, or discarded".

In view of this change and in anticipation of a corresponding change in the *Ohio Uniform Food Safety Code*, it is our opinion that the date marking requirement contained in rule 3717-1-1.4(G) will be met by utilization of a "consume by", "sell by", or "discard by" date marking.

If you have any questions regarding this matter, please contact the Ohio Department of Agriculture, Division of Food Safety or the Ohio Department of Health, Bureau of Environmental Health.

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