

State of Connecticut
Regulation of
Department of Consumer Protection
Concerning
Uniform Date Labeling for Foods

Section 1. Section 43-8a-1 of the Regulations of Connecticut State Agencies is amended to read as follows:

Sec. 43-8a-1. [Adoption of Uniform] Uniform open dating[regulation].[Exceptions]

Exceptions.

[The voluntary version of the Uniform Open Dating Regulation, adopted and amended from time to time by the National Conference on Weights and Measures and published in the National Institute of Standards and Technology Handbook 130, as amended, of the United States Department of Commerce is adopted, and herein incorporated by reference, as the standard for this state. Those dairy foods that are required to be marked with a last sale date pursuant to Connecticut General Statutes Section 22-197b shall be exempted from the Uniform Open Dating Regulation.]

(a) Definitions.

(1) (1)“Adulterated” [shall have] has the same meaning as described in Section 21a-101 of the [general statutes] Connecticut General Statutes.

(2) (2)“Best if used by date” means a date prior to a deterioration of quality for semi perishable food and long shelf-life food.

(3) (3)[Deterioration of quality] A deterioration of quality means a significant risk of spoilage, loss of value, or loss of palatability.

(3) (4) "Food establishment" means any establishment in which food is stored, offered for sale, processed, or prepared, other than an eating or drinking establishment, and includes the transportation of any food.

(4) (5) “Long shelf-life food” means any food for which a deterioration of quality does not occur sooner than six months after the date of packaging, including, but not limited to, foods preserved by freezing, dehydrating, or being placed in a hermetically sealed container.

(5) (6) “Perishable food” means any food having a deterioration of quality [within 60 days of] not later than sixty days after the date of [production] packaging.

(6) (7)"Person" means an individual, partnership, limited liability company, society, association, joint stock company, corporation, estate, receiver, trustee, assignee, referee or any other legal entity and any other person acting in a fiduciary or representative capacity, whether appointed by a court or otherwise, and any combination thereof.

(7) (8) “Prepackaged food” means food packaged prior to being displayed or offered for retail sale.

(8) (9) “Sell by date” means the recommended last date of sale of perishable food, semi perishable food, and long shelf-life food that permits a subsequent period before a deterioration of quality.

(9) (10) “Semi perishable food” means any food for which [deterioration] a deterioration of quality occurs only after a minimum of [60] sixty days, but [within] not later than six months, after the date of packaging.

(10) (11) “Wholesome food” means a raw, cooked, processed or prepared edible substance or beverage that is intended for human consumption and that meets all quality and labeling standards imposed by federal, state and local laws and regulations, including food not readily marketable due to any condition such as packaging, appearance, age, freshness, grade, surplus or size.

(b) A food establishment shall not sell or offer for sale a prepackaged perishable food identified with a sell by date except as prescribed by this [regulation] section.

(c) Perishable food shall not be offered for sale after the sell by date unless it is wholesome food, not adulterated, and advertised in a conspicuous manner as being offered for sale after the [recommended last date of sale] sell by date. The sell by date on a product shall not be amended or replaced after such product has been offered for retail sale.

(d) The placement of a sign, sticker, or tag is acceptable to advertise the sell by date if it is easily readable and identifies the perishable food as having passed the [recommended last date of sale] sell by the date. The food establishment is responsible for honest and accurate advertisement of a perishable food offered for sale after the recommended last date of sale.

(e) A retailer who purchases prepackaged perishable food may, upon written agreement with the person prepackaging such food [determine, identify, and be responsible for the sell by date placed on or attached], determine and identify who will be responsible for placing or attaching the sell by date on or to each package of such food.

(f) If a retailer elects to use a sell by [date that person] date, the retailer shall place or attach to each package of perishable food a date by month and [day. However,] day, except that bakery products with a shelf life of not more than seven days may be dated with the day of the week representing the last recommended [day of sale] sell by date.

(g) The sell by date shall be displayed with the term “sell by” or words of similar import immediately preceding or immediately over the designated date unless a prominent notice is on the label describing the date as a sell by date and indicating the location of the date.

(h) If the day of the week is solely designated as provided in subsection (f) of this section, the name of the day may be abbreviated by the use of either the first two or first three letters of the name of the [day] day; for example, Sunday – Sun, Monday – Mon, Tuesday – Tue, Wednesday – Wed, Thursday – Thu, Friday – Fri, Saturday – Sat.

(i) Except as provided [for above] in subsection (h) of this section, the date shall be designated by:

[(1) the] (1) The first three letters of the month, preceded or followed by a numeral indicating the calendar day; or

[(2) the] (2) The month represented numerically followed by a numeral designation of the calendar day. The month and day designation shall be separated by a period, slash, dash, or spacing. When a numeral designation of the first nine days of the month is used, the number shall include a zero as the first digit; for example, 01 or 03.

(j) The [“sell by date”] may include the year following the day if such year is expressed as a two- or four-digit number followed or preceded by the first three letters of the month. Year, day and month shall be separated by a space, slash or other recognized separator.

(k) A manufacturer, processor, packer, re-packer, or other person who prepackages semi perishable or long [shelf life] shelf-life food may place upon or attach to the package an open date providing it is designated by the best if used by date.

(l) A food establishment may sell or offer for sale food beyond the designated best if used by date provided the food is wholesome, unadulterated and the organoleptic physical quality standards for that food have not significantly diminished.

(m) The best if used by date shall be placed upon or attached to each container or package for individual sale and be limited to the terms “best if used by” or words of similar import followed by or immediately over the date designated by the month and year unless a prominent notice is on the label describing the date as a “best if used by” date and indicating the location of the date. The date shall be designated by the first three letters of the month followed by a numeral indicating the year. The use of the day of the month is permissible provided that the day of the month is placed prior to the month; for example, 30 Sep 73.

(n) The date, whether sell by date or best if used by date, shall be printed, stamped, embossed, perforated, or otherwise shown on the package, label on the package, or tag attached

to the package in a manner that is easily readable and separate from other information, graphics, or lettering to be clearly visible to the consumer. The date shall not be superimposed on other required information or obscured by other information, graphics, or pricing. Regardless of the type size used, the date shall be easily readable. These requirements do not preclude a supplemental notice elsewhere on a package describing or indicating the location of the date.

(o) A person who places either the sell by date or best if used by date on a package shall determine the date by taking into consideration the food quality, characteristics, formulation, processing impact, packaging or container and other protective wrapping or coating, customary transportation, and storage and display conditions. For purposes of calculating [this date, home storage conditions shall be considered] this sell by date or best if used by date, such person shall consider home storage conditions to be similar to those in the usual retail store, except that [the date for refrigerated food may be calculated] such person may calculate the date for refrigerated food by using a home storage temperature standard of 40 °F (4.4 °C).

(p) A person who is responsible for establishing the date for perishable, semi perishable, and long shelf-life food shall keep a record of the method used to determine the date. A record revision is necessary whenever a factor affecting date determination is altered. Such record shall be retained for not less than six months after the most recent sell by date or best if used by date. Upon request, such person shall make such documents immediately available for inspection and copying by the commissioner and shall produce copies of such documents to the commissioner or the commissioner's authorized representative [within two business days] not later than two business days after such request. Such documents shall be provided to the commissioner in electronic format, unless not commercially practical. In complying with the provisions of this subsection, no person shall use a foreign language, codes or symbols in the keeping of any required document.

(q) [This regulation does] The provisions of this section do not apply to perishable fruits, vegetables or shellfish in a container permitting direct sensory examination,[and] or milk and milk products regulated pursuant to chapter 430 of the [general statutes] Connecticut General Statutes.

(r) [Notwithstanding any provisions of this section, in] In the provisions of this section ,in the event of a conflict between these regulations and the laws and policies of the United States Department of Agriculture, the[provisions] law and policies of the United States Department of Agriculture shall prevail.

Statement of Purpose

The purpose of this regulation is to prescribe optional uniform date labeling that must be used whenever a packager elects to use date labeling on perishable and non-perishable foods. Open dating is intended for use and understanding by both distributors and consumers when judging food qualities whenever a packager voluntarily elects to use date labeling.