



Ohio Department of Agriculture  
and  
Ohio Department of Health



**Governor** Bob Taft  
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DT: January 23, 2002

TO: Health Commissioners, Directors of Environmental Health, and Interested Parties

FR: Ohio Department of Agriculture, Division of Food Safety  
Ohio Department of Health, Bureau of Environmental Health

RE: Letter of Opinion 2002-01

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

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 3717-1-3.4(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.

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