

DEPARTMENT OF AGRICULTURE

FOOD AND DAIRY DIVISION

REGULATION NO. 554. LAST DAY OF SALE

(By authority conferred on the department of agriculture by section 23 of Act No. 39 of the Public Acts of 1968, as amended, being S289.723 of the Michigan Compiled Laws)

R 285.554.1 Definitions.

Rule 1. (1) As used in these rules:

(a) "Act" means Act No. 39 of the Public Acts of 1968, as amended, being S289.701 et seq. of the Michigan Compiled Laws.

(b) "Date" means the recommended last day of sale.

(c) "Perishable food" means any food in package form which the manufacturer, packer, or retailer, in conjunction with the department, determines as having a significant risk of spoilage, loss of value, or loss of palatability within 90 days of the date of packaging.

(d) "Prepackaged" means packaged prior to being displayed or offered for sale.

(2) Terms defined in the act have the same meaning when used in these rules.

History: 1954 ACS 93, Eff. Sept. 23, 1977; 1979 AC.

R 285.554.2 Exemptions.

Rule 2. (1) These rules do not apply to an individually packaged food item that is a component of a larger food item if the larger food item is identified with a date the same as or earlier than the date of that component.

(2) Perishable foods packaged under, and in compliance with, federal laws and regulations, if providing information equal to or greater than the information required by these rules, are exempt from the labeling requirements of these rules.

(3) Smoked fish under R 285.541.1 et seq. are exempt from these rules.

History: 1954 ACS 93, Eff. Sept. 23, 1977; 1979 AC.

R 285.554.3 Determination of date; factors; records; examination.

Rule 3. (1) A manufacturer, processor, packer, repacker, retailer, or other person who prepackages perishable food shall determine a date which allows a reasonable period after sale for consumption of the food without physical spoilage. This determination shall take into consideration the food quality and characteristics, packaging and other protective wrapping, coating or container, customary transportation and storage conditions, and usual retail storage and display conditions. The temperature and humidity of storage and display areas for perishable food, at all stages prior to retail sale, shall also be factors in determining the date.

(2) The determination of a reasonable period for consumption shall be based upon refrigeration temperatures of not more than 40 degrees Fahrenheit (4.4 degrees Celsius) or, if frozen, not more than 0 degrees Fahrenheit (-17.8 degrees Celsius), and upon other customary protective measures taken for that type of food after retail sale.

(3) A retailer who purchases prepackaged perishable food may, upon written agreement with the person prepackaging such food, determine, identify, and be responsible for the date placed on, or attached to, each package of such food.

(4) The person responsible for establishing the date for perishable food shall keep a record of the method of determination of that date. Such record shall be retained for not less than 6 months after the manufacturing period of the perishable food, and records shall be available during normal business hours for examination, upon request, by the state department of agriculture.

History: 1954 ACS 93, Eff. Sept. 23, 1977; 1979 AC.

R 285.554.4 Date designation and placement; exception.

Rule 4. (1) A person described in R 285.554.3(1) or (3) shall place on, or attach to, each package of regulated perishable food a date by the month and day. However, bakery products, with a shelf life of not more than 7 days, may be dated with the day of the week representing the last day of sale.

(2) The date may be displayed with or without explanatory terms. If explanatory terms are used, such terms shall be limited to 1 of the following: "Sell by _____," "Sell before _____," "Last date of sale _____," "Recommended last date of sale _____," or "Recommended sale date _____." Other meaningful terms may be used if specifically approved by the department.

(3) The date shall be designated by the first 3 letters of the month, followed by a numeral indicating the calendar day, or shall be designated by the calendar month represented numerically, followed by a numeral designating the calendar day. Such designations shall be separated by a period, slash, dash, or spacing. For example, September 9 shall be expressed as "SEP.09" or "9.09"; "Sep./09" or "9/09"; "Sep.-09" or "9--09"; or "Sep.09" or "9 09." When a numeral designating a day numbered less than 10 is used, the number shall include a zero as the first digit; for example, 01 or 03.

(4) The date may include the year following the day if such year is expressed as a 2 or 4 digit number, separated as described in subrule (3). (5) The 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 separated from other information, graphics, or lettering so as to be clearly visible to a prospective purchaser. The date shall not be superimposed on other required information or obscured by other information, pricing, or graphics. Regardless of the type size used, the date shall be easily readable.

History: 1954 ACS 93, Eff. Sept. 23, 1977; 1979 AC.

R 285.554.5 Sale after date; advertisement.

Rule 5. (1) Perishable foods shall not be offered for sale after the date unless such food is advertised to a prospective purchaser in a conspicuous manner as being offered for sale after the recommended last day of sale. The placement of a sign, sticker, or tag used for such advertising is acceptable if it is easily readable and clearly identifies the perishable food as having passed the recommended last day of sale.

(2) The retail or final seller is responsible for the proper advertisement of perishable food sold after the date.

History: 1954 ACS 93, Eff. Sept. 23, 1977; 1979 AC.