

# Date Marking Guide for Food Establishments

(Food Code Section 3-501.17)

This guide will provide practical information to implement food code date marking requirements that apply to many ready-to-eat, potentially hazardous foods. Some of the challenges operators may face, include:

- Determining which foods are required to be date marked,
- Developing a date marking system for employees to follow, and
- Ordering volumes and sizes of product that can be sold within seven days of opening.

## Why is Date Marking Important?

Date marking is a means of controlling the growth of *Listeria monocytogenes*, a bacteria that continues to grow even at refrigerated temperatures. Date marking is a process assuring the food is discarded before these bacteria can cause foodborne illness.

## How to Mark the Date

Food must be discarded within seven days, which means the day the food is prepared or opened plus six days. (Example: Food prepared on April 1 must be discarded on April 7.)

A food establishment operator can choose any marking method that suits their needs. It's important to know whatever system you use, it must be understandable, effective, consistently used by employees, and clear to your inspector during the evaluation. It's recommended you provide a written policy for employees to follow.

## What Does the Food Code Require?

You must date mark any food meeting all of the following:

- Potentially Hazardous Food (PHF)/Time-Temperature Controlled for Safety (TCS) food requires time and temperature control to limit the pathogen growth or toxin formation, and
- Ready-to-eat (RTE) foods that may be eaten without any additional preparation steps to make the food safe, and
- Foods stored under refrigeration for more than 24 hours.

## What if I Freeze the Food?

Freezing food stops the date marking clock but does not reset it. So if a food is stored at 41° F for two days and then frozen at 0° F, it can still be stored at 41° F for five more days after removal from the freezer. The freezing date and the thawing date must be put on the container along with the preparation date as an indication of how many of the original seven days have been used. If food is not dated with these dates, it must be used or discarded within 24 hours.

## What if I Combine Food that was Opened on Different Dates?

When different containers of foods are combined, the date of the oldest ingredient becomes the reference date. For example, if today is Wednesday, and you are mixing salad marked on Monday with salad marked on Tuesday, the combined salad marking would be based on a starting date of Monday.

## Items Not Requiring Date Marking

Some foods prepared and packaged in an inspected food processing plant may not require date marking. These foods include:

- Deli salads.
- Semi soft cheeses – see chart.
- Hard cheeses – see chart.
- Cultured dairy products such as yogurt, sour cream, and buttermilk.
- Preserved fish products such as pickled herring, dried, or salted cod.
- Shelf-stable dry fermented sausages, pepperoni, and salami not labeled as "keep refrigerated."

## **Deli Meats**

Date marking applies to entire loaves of deli meats once the original package is opened. Refrigerated deli meats should be purchased in sizes that can be sliced and sold within seven days of opening. If this is not possible, a way to use up a slow moving loaf of deli meat is by making it into other products such as sandwiches. But do this right away instead of waiting until day seven.

### **What Date Applies if I Package Deli Items for Sale?**

Date marking is the last day the product can be consumed safely. The "last date of sale" is a date the consumer sees on a package. Whenever a deli item is packaged for sale out of a self-service case, the package must be marked with the last date of sale (or sell-by date). The sell-by date shall take into consideration a reasonable period of time the product will be used in the consumer's home and still be wholesome and safe. Date marking then is used to determine a meaningful sell-by date.



For example, if a tub of potato salad was opened in the deli four days ago and you want to prepackage some half pound containers for sale in the self-service case, you must take into consideration those first four days when setting a sell-by date. Regardless of the date you choose, the product cannot be sold after day seven.

**Our operation goes through refrigerated salami so fast that the loaf will be gone in less than four days. Do I still need to date mark it?**

Yes, if the food is not going to be served, sold, or discarded within 24 hours, it must be date marked.

# Date Marking & Disposal of Ready to Eat Potentially Hazardous Food

## What is date marking and how is it used?

Date marking is a tool to help ensure food safety. It is also a license requirement. Date marking is an identification system for ready-to-eat foods held over 24 hours, so you know how old they are. The system helps to identify either when the food was prepared, or when it is to be discarded. Refrigerated, ready-to-eat, potentially hazardous food prepared and held for more than 24 hours in a food establishment must be marked with the date of preparation and must be discarded if not consumed within 7 calendar days from the date of preparation. A container of refrigerated, ready-to-eat, potentially hazardous food prepared and packaged by a food processing plant must be marked to indicate the date by which the food must be consumed or it must be consumed or discarded within 7 calendar days after the original package is opened in a food establishment. This requirement does not apply to whole, unsliced portions of a cured and processed product with the original casing maintained on the remaining portion, such as bologna, salami, or other sausage in a cellulose casing.



## What foods need to be date marked?

1. Does the food require refrigeration?
2. If commercially packaged, has the original package been opened?
3. Is the food ready-to-eat? Could this food be eaten just like it is, regardless of temperature? Examples of ready-to-eat foods include: cold, cooked roast beef and cold, cooked macaroni casserole.
4. Is the food potentially hazardous? Will it mold, or grow bacteria? Will the food support bacterial or viral foodborne organism growth? Example, *listeria monocytogenes* is associated with soft cheeses.
5. Will the food be in the establishment for more than 24 hours? This counts even if the food is, or will be, mixed with something else to form a new product.

If you answered YES to all 5 of these questions, then the food needs to be date marked.

## When to discard?

Refrigerator is at 41° F or below = discard within 7 days

## Facts to be aware of:

**If the food has an expiration date on it, isn't that the same as a date mark?**

No, the expiration date is the date through which the manufacturer guarantees the food will meet their quality standards. Date marking for discard ensures the safety of the food.

**The establishment goes through this food so fast, if it is going to be gone in less than 7 days. Do I still need to date mark it?**

Yes, if the food is not going to be served or discarded within 24 hours, it must be date marked.

## What if I freeze the food?

Freezing food stops the date marking clock but does not reset it. So, if a food is stored at 41° F for 2 days and then frozen, it can still be stored at 41° F for 5 more days when it begins to thaw. The freezing date and the thawing date need to be put on the container along with the prep date, or an indication of how many of the original 7 days have been used. If food is not dated with these dates, it must be used or discarded.

**What if the food item is packaged for self-service?**

The date marking requirements apply whether the ready-to-eat potentially hazardous food is sold from a service case, repackaged for self-service or consumed on-site.

**What date applies when a salad bar offering is refreshed?**

If ready-to-eat potentially hazardous foods are "refreshed," as in a service case or salad buffet, the date marking for the oldest product in the container must not be exceeded.

**What date applies when a pre-cooked ingredient is used to make a salad?**

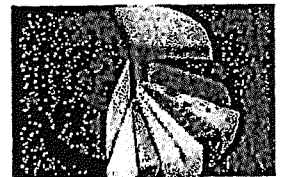
When cooked product is held in refrigeration for additional preparation at a later date, the seven-day rule begins at the end of the initial key step. For example, in the case that potatoes are cooked for potato salad or roast chicken prepared for chicken salad, if the potatoes or chicken are held for two days after cooking and then processed into salads, these salads must be consumed within five days so as to not exceed the seven-day rule. If the cooked products were cooled and reheated, the clock starts over after it has been reheated to 165° F. (kill step).

**What if I mix the food with something else?**

When foods are mixed together the date of the oldest food becomes the new date for the mixed food. Example, if today is Wednesday, and you are mixing a food that was marked on Monday with a food that was marked on Tuesday, the mixed food marking would be based on the starting date of Monday.

**Are there any exceptions? Yes.**

- Uncut portions of processed cured meats packaged in cellulose, like salami and bologna do not need to be date marked.
- Hard cheeses like Asiago old, Cheddar, Gruyere, Parmesan, Romano, and Sapsago do not need to be date marked.
- Semi-soft cheeses like Asiago fresh, Soft, Blue, Brick, Colby, Edam, Gouda, Monterey, Pasteurized processed cheese, Provolone and Swiss do not need to be date marked.
- Soft cheeses like Brie, Cotijo, Ricotta and Teleme must be date marked.
- Commercial acidified dressing like mayonnaise and Thousand Island do not need to be date marked. Homemade dressings must be date marked.



**Date marking section does not apply to the following foods prepared and packaged by a food processing plant inspected by a regulatory authority:**

- (1) **Deli salads**, such as ham salad, seafood salad, chicken salad, egg salad, pasta salad, potato salad, and macaroni salad, manufactured in accordance with 21 CFR 110
  - (2) **Hard cheeses** containing not more than 39% moisture as defined in 21 CFR 133
  - (3) **Semi-soft cheeses** containing more than 39% moisture, but not more than 50% moisture, as defined in 21 CFR 133
  - (4) **Cultured dairy products** as defined in 21 CFR 131, such as yogurt, sour cream, and buttermilk;
  - (5) **Preserved fish products**, such as pickled herring and dried or salted cod, and other acidified FISH products defined in 21 CFR 114
  - (6) Shelf stable, **dry fermented sausages**, such as pepperoni and Genoa salami that are not labeled "Keep Refrigerated" as specified in 9 CFR 317
  - (7) Shelf stable **salt-cured products** such as prosciutto and Parma (ham) that are not labeled "Keep Refrigerated" as specified in 9 CFR 317
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**Potentially Hazardous Food** is a term used to classify foods that require time-temperature control to keep them safe for human consumption. A PHF is a food that:

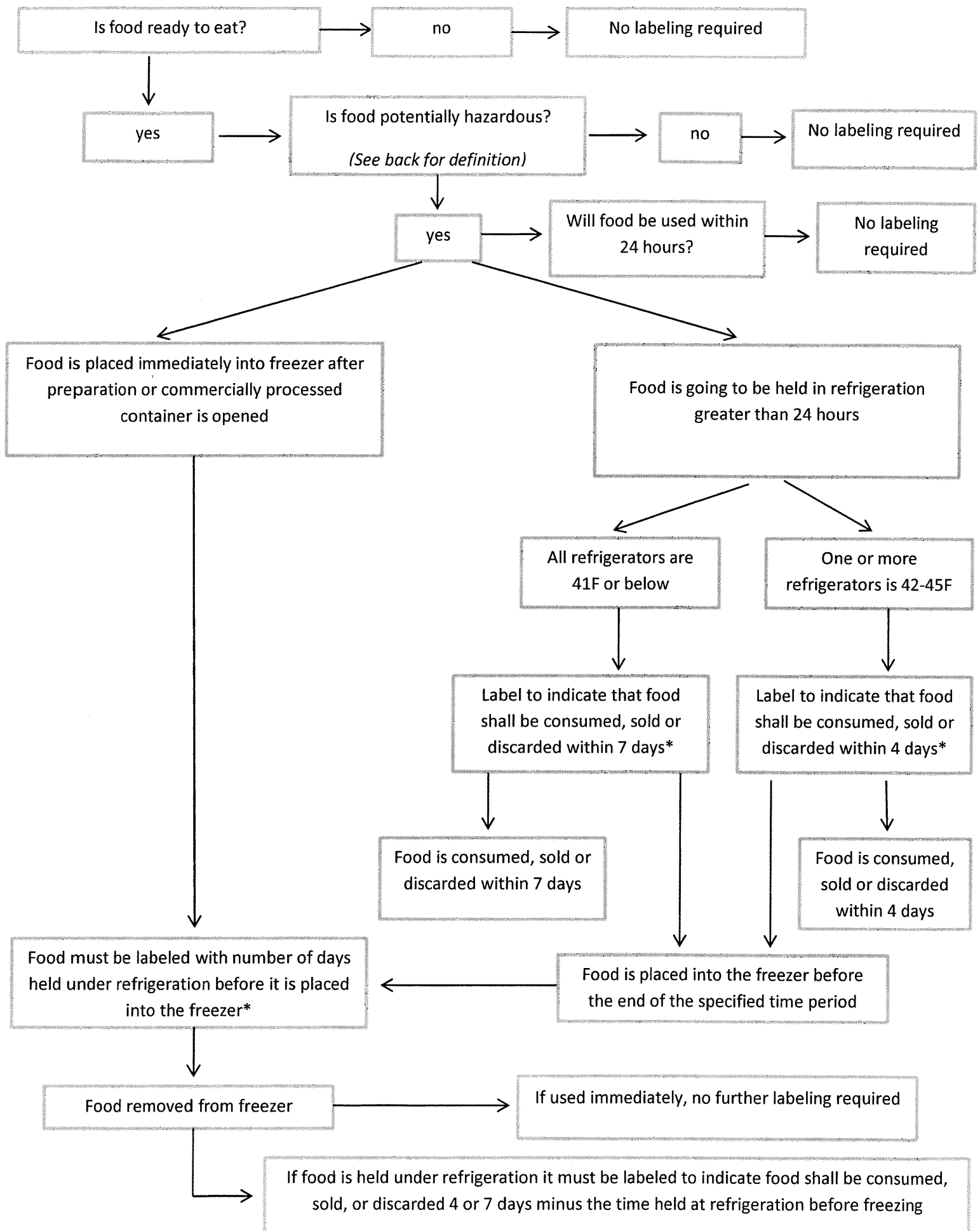
- Contains moisture
- Contains protein
- Is neutral to slightly acidic - typically having a pH between 4.6 and 7.5

Potentially hazardous foods include:

- Meat (beef, pork, lamb)
- Poultry (chicken, turkey, duck)
- Fish
- Shellfish and crustaceans
- Eggs
- Milk and dairy products
- Cooked vegetables
- Baked potatoes
- Cut tomatoes
- Cut leafy greens
- Raw sprouts
- Tofu and soy-protein foods
- Untreated garlic and oil mixtures
- Cut melons

Foods that are *not* potentially hazardous include:

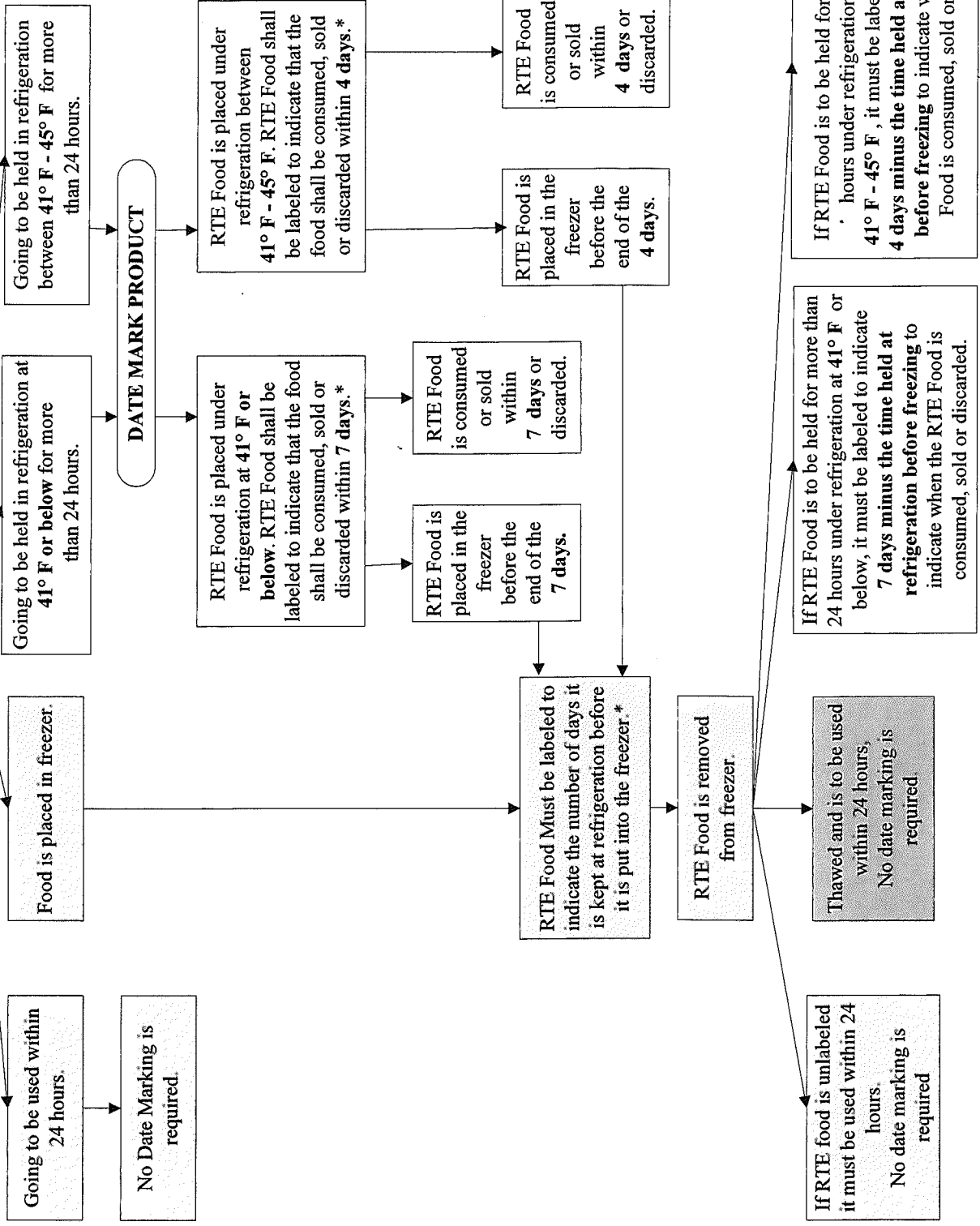
- Dried beans, rice, pasta
- Breads
- Baked goods (except custard based or with meringue)
- Citrus (including lemons, oranges, grapefruit)
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\*Time starts (day 1) with day of preparation or day commercially processed container/ package is opened

# Date Marking Guidelines

POTENTIALLY HAZARDOUS, READY-TO-EAT (RTE) FOODS Prepared in a Food Establishment  
OR  
Commercially Prepared in a Food Processing Plant and opened at the Food Establishment



\* Time starts with the day of preparation  
OR  
The day the container is opened.

- Date marking exemptions:**
- Some deli salads, preserved fish, salt-cured products, sausage (pg. 87 2009 FDA Food Code)
  - Some cheese (pg. 417 2009 FDA Food Code annex)
  - Cultured dairy (e.g. yogurt, sour cream)

If RTE Food is to be held for more than 24 hours under refrigeration between 41° F - 45° F, it must be labeled to indicate 4 days minus the time held at refrigeration before freezing to indicate when the RTE Food is consumed, sold or discarded.

If RTE Food is to be held for more than 24 hours under refrigeration at 41° F or below, it must be labeled to indicate 7 days minus the time held at refrigeration before freezing to indicate when the RTE Food is consumed, sold or discarded.