



Docket Clerk
U.S. Department of Agriculture
Food Safety and Inspection Service
1400 Independence Ave SW
Mailstop 3758
Washington DC 20250-3700

RE: Docket No. FSIS-2024-0021: Food Date Labeling

March 5, 2025

To Whom It May Concern:

The International Dairy Foods Association (IDFA), Washington, D.C., represents the nation's dairy manufacturing and marketing industry, which supports more than 3.2 million jobs that generate \$49 billion in direct wages and \$794 billion in overall economic impact. IDFA's diverse membership ranges from multinational organizations to single-plant companies, from dairy companies and cooperatives to food retailers and suppliers. Together, IDFA members represent most of the milk, cheese, ice cream, yogurt and cultured products, and dairy ingredients produced and marketed in the United States and sold throughout the world. Delicious, safe and nutritious, dairy foods are foundational foods in American's diets and offer unparalleled health and consumer benefits to people of all ages.

IDFA appreciates this opportunity to provide comments to the Food Safety and Inspection Service (FSIS) and the U.S. Food and Drug Administration (FDA) in response to their joint Request for Information (RFI) on food date labeling. Labels are an important method of communicating with consumers, and consistent date labels will permit consumers to identify foods and beverages that are safe for consumption and of high quality or that should be discarded with the potential to avoid food waste. IDFA shares the goals of the Agencies of providing consumers with clear information to assist their purchasing decisions, including date labels.

IDFA's position on date labeling is spelled out in the key principals listed below.

Date labeling should:

- Result in the harmonization and uniformity of current and future labeling laws and regulations, with regard to nomenclature and food donation laws and regulations;
- Allow food manufacturers to 1) determine whether date labels are needed and 2) set the maximum number of days for the quality or discard or date beyond which the food is no longer safe. Date labeling should be based on sound science, rather than have a state or federal agency make such determinations;

- Permit one date label per retail package, either a discard date (“Use By”) or a quality date (“Best if Used By”), but not both and prohibit the use of “Sell by” dates, which are currently mandated by several states;
- Exclude business-to-business packaging from date labeling requirements; and
- Assure that state food donation laws do not prohibit the sale or donations of food after the quality date but do prohibit the sale or donations of foods after the discard date.

Date Labeling Requirements Should Be Consistent Across the Country to Reduce Industry Costs, Make it Easier for Retailers and Consumers to Understand, and to Ultimately Reduce Food Waste

Currently, eighteen (18) states have mandated date labeling in a variety of different forms for various foods. (See Appendix A.) The patchwork of conflicting state date labeling requirements is challenging and costly for the supply chain and consumers. In general, food products are labeled on a national basis, rather than bearing unique labels for different states. A consistent approach to date labeling across states and nationwide would streamline the process of labeling products that will be sold in multiple states and is likely to reduce costs for our companies.

A Federal bill titled the Food Date Labeling Act that was introduced, but not passed, would not have mandated date labeling on all food packages, but would have required those packages that do include date labeling to use the following consistent phrases, “Best if Used by” to represent food quality and “Use by” to represent the discard date and date beyond which the food is no longer safe. Abbreviations of “BB” or “UB” would be permitted for smaller packages. It would have required the phrases to be presented in a single, easy-to-read style on a conspicuous place on the food package. The bill would also have required consumer education on the required date labeling, and it did include Federal preemption of state date labeling requirements.¹

Additionally, California recently enacted CA AB 660 that requires date labeling appearing on food and beverage packages to use specific phrases, including “Best if Used by” for quality dates and “Use by” for safety dates.² Like the aforementioned Federal bill, CA AB 660 does not require that all food packages have date labeling. Numerous IDFA member companies are in the process of updating their product labels, where needed, to align with California’s date labeling requirements. A nationwide approach that uses these same consistent phrases would help dairy manufacturers label their products in a consistent way that is understandable and useful to retailers and consumers and ensures that Americans utilize nutrient-rich dairy products to the full extent of their shelf-life, helping to reduce food waste.

It is important to note that both the Federal bill and the California law only mandate specific language for date labeling, and not the specific dates that need to be included adjacent to that language. Consistent labeling should apply only to the date labeling phrases or wording. Food manufacturers should continue to be responsible for determining which of the identified phrases

¹ "H.R.3159 - 118th Congress (2023-2024): Food Date Labeling Act of 2023." *Congress.gov*, Library of Congress, 1 June 2023, <https://www.congress.gov/bill/118th-congress/house-bill/3159>.

"S.1484 - 118th Congress (2023-2024): Food Date Labeling Act of 2023." *Congress.gov*, Library of Congress, 9 May 2023, <https://www.congress.gov/bill/118th-congress/senate-bill/1484>.

² "Assembly Bill 660: Food and beverage products: labeling: quality dates, safety dates, and sell-by dates." California Legislative Information, State of California, 30 September 2024, https://leginfo.ca.gov/faces/billTextClient.xhtml?bill_id=202320240AB660

(“best if used by” or “use by”) is appropriate for their various food products and identifying the specific date that should be used in the labeling statement, dependent on food safety and food quality considerations. The appropriate phrase and date to be labeled will vary based on the composition of the product, the method of processing, and the type of packaging used. Food manufacturers are best situated to evaluate these variables and the best date label statement to communicate with consumers. The use of one date label phrase on food packages will avoid the confusion which could be caused by including two date label phrases.

Since February 2017, a voluntary industry effort³ has made the phrases “Best if Used By” and “Use By” more familiar to consumers. The socialization of these phrases for date labeling will continue, given California’s food date labeling law requires these same phrases when date labeling is declared on food packages. When a large state such as California puts in place a mandate for food labeling such as it did for date labeling, it becomes a de facto nationwide requirement for food manufacturers given the size of the California market and the fact that the majority of food manufacturers in the U.S. sell their products in California. Because California has preceded the Federal government on date labeling with a compliance date of July 1, 2026, IDFA believes the date phrases California is dictating through statute should be adopted as the Federal standard. We are not suggesting that these phrases are the most understood by consumers⁴, but a consistent nationwide approach will be the most effective approach.

Any Changes to Date Labeling Must be Accompanied by Robust Consumer Education

Date labels are one component of food labeling that consumers are most familiar with— 93% of consumers that are concerned about food safety are familiar with date labeling statements.⁵ However, many consumers do not currently understand the meaning of the many date labeling phrases or statements in use today, including “best if used by” or “use by.”⁶ For consumers to feel positive about the safety of their food and to help prevent unnecessary food waste, they must understand what date label phrases or statements mean and what actions they should take in response to these phrases or statements. Therefore, the government must plan and implement a robust consumer education campaign on date labeling should a nationwide, consistent approach be taken at the Federal level.

Scope of Feedback for Request for Information

It is IDFA’s understanding that the questions posed by the Agencies are applicable to products sold at retail in the United States. Some dairy processors export their products to other countries and must label their products as mandated in the country of sale. Therefore, date labeling on food packages that are exported must meet the date labeling standards, if any, required by the importing country and are not covered under this RFI.

³ FMI: The Food Industry Association. “Product Code Dating.” <https://www.fmi.org/industry-topics/labeling/product-code-dating>

⁴ Kavanaugh M, Quinlan JJ. Consumer knowledge and behaviors regarding food date labels and food waste. *Food Control*, 2020 September; 115; doi: <https://doi.org/10.1016/j.foodcont.2020.107285>.

⁵ International Food Information Council. 2024 Food & Health Survey. June 20, 2024. [<https://foodinsight.org/2024-food-health-survey/>]

⁶ Turvey C, Moran M, Scheck J, Arashiro A, Huang Q, Heley K, Johnston E, Neff R. Impact of Messaging Strategy on Consumer Understanding of Food Date Labels. *J Nutr Educ Behav*. 2021 May;53(5):389-400. doi: 10.1016/j.jneb.2021.03.007. PMID: 33966763.

Additionally, many dairy manufacturers make products that are subsequently sold to other food companies for packaging and distribution or further manufacturing by the other company. Similarly, products can be sold to food service customers, which may be used as ingredients in finished foods, or presented in a restaurant, cafeteria or other food service setting. The products sold between companies may not have any date labeling requirement, as this information may be provided in another way, such as on shipping documents.

Some products, particularly cheeses, may have a “produced on” date. This date is helpful for both the producing cheesemaker and the company that may purchase these products for further aging, or for converting (cutting and wrapping). However, these “produced on” dates are not intended to communicate information to the final consumer, so we would not expect these statements to fall under the scope of this RFI.

Responses to FSIS and FDA’s Questions

In keeping with IDFA’s overall position and principles on date labeling provided above, we provide the following responses to the questions posed in the RFI.

1. *Which products contain date labels, and which do not? Why do some products contain date labels and others do not?*

A wide range of dairy products, including fluid milk, yogurt, ice cream and cheese, contain date labeling statements on their labels. (See Appendix B for photographs). Date labeling is included on these packages because dairy products are perishable and must be consumed by a certain date to be safe and wholesome.

2. *What standards or criteria do manufacturers and producers consider when deciding which food date label phrase to use? Are different phrases used for different products or categories of products and if so, why? Are there legal or trade requirements or marketing standards that impact which phrases are used (i.e., local or state requirements, industry best practice standards, etc.) If so, please describe.*

The specific phrasing of date labeling statements on dairy products can vary, depending on regulations in place for the target market of sale, food safety considerations and quality of the individual product.

Eighteen states currently require different date labeling schemes for various food products, including dairy products. For products sold in these states, any date labeling phrase used must align with the state requirements.

When selling in states that do not have specific date labeling requirements, companies currently use a variety of different phrases, depending on whether the date represents food safety or quality considerations. For dairy products where the quality of the product diminishes over time, “best if used by” dates are most often used.

Many dairy products include date labeling that presents the date and the date labeling phrase in a split manner with “best if used before the date printed above” on the product label, and the appropriate date ink jetted at the top of the package. IDFA urges the agencies to permit this

approach moving forward, as long as the wording is consistent with the mandated date labeling phrases and all elements of the statement, including the date, are easily legible.

While the RFI did not inquire about the specific font size or type, any declaration that is easily legible to the consumer at retail should be acceptable. This should include the presentation of the date labeling phrase in all capital letters, versus mandating a mixture of capital and lowercase letters.

However, as stated above, IDFA supports federally consistent date labeling phrases, specifically “best if used by” for products where quality is the limiting factor and “use by” for products where food safety is the important consideration.

3. *What standards or criteria do manufacturers and producers consider when deciding what date to use?*

It is important to note that while most states rely on food producers to determine the quality and safety dates for date labeling through quality testing and shelf-life studies, this is not always true for fluid milk and its labels. While 18 states currently require date labeling on foods in general, two states additionally determine the actual date that must appear on fluid milk labels.⁷ Specifically, Montana specifies a “sell by” date of 12 days for pasteurized fluid milk and Pennsylvania specifies a “sell by” date of 17 dates for pasteurized fluid milk. For products sold in these states, the state requirement determines the actual date that is included with the date labeling phrase on the label.

For other dairy products, companies take great care in calculating the dates for date labels. The process of determining which phrases and dates to use when communicating information about safety and quality to consumers is highly complex and product-specific. Companies have the best insight into the unique considerations at play for particular products, including: 1) formulation details, such as whether any ingredients function as preservatives; 2) packaging material; 3) manufacturing process, including the extent to which the process may preserve the product as would be the case in pasteurization; 4) quality and safety aspects; 5) distribution cycles, including duration and temperature controls; and 5) consumer storage and use. With all of these considerations in mind, the manufacturer will conduct quality testing through the aging process and shelf life of the product. This testing is performed to identify when a product no longer meets quality targets set by the company or the relevant food safety thresholds/standards.

The type of heat treatment and other processing used to affect the food safety and shelf life of dairy products will impact the specific date that accompanies a date labeling phrase on dairy food labels. For example, the same fluid milk will have a different “use by” date depending on whether it is pasteurized (High Temperature Short Time), ultra pasteurized, or Ultra High Temperature heat treated, or if it is packaged in aseptic containers.

⁷ Administrative Rules of Montana, Title 32 Livestock, Chapter 32.8 Fluid Milk and Grade A Milk Products, Subchapter 32.8.2 Milk Freshness Dating.
Pennsylvania Code Title 7, Chapter 59a. Milk Sanitation, 59a.15. Labeling: milk dating.

4. *Would a particular product have a different date depending on the phrase used (e.g., would the date be the same or different if the phrase were “Best if Used By” versus “Use By” or “Freeze By”)? If so, please explain.*

“Best if Used by” and “Use By” would have different meanings, with “best if used by” referring to product quality and the date after which the food remains safe, but the quality may begin to deteriorate and “use by” referring to product safety and an actual discard date. The difference in meaning between these phrases will result in different dates being associated with the phrases.

Certain date labeling phrases may be more appropriate for specific food products, depending on whether the quality or safety of the labeled food is the most significant concern. Therefore, the date labeling phrase and the date included on the labels of food products will vary depending on the intent of the message to be communicated – whether the intent is to communicate when to discard a product because it may no longer be safe or to communicate the date beyond which a product is still safe to eat but the quality will be diminishing.

If the Federal government sets date labeling requirements that limit such phrases to two options, and we do suggest minimally a date labeling phrase specific to quality and one for food safety, customers and consumers will need to completely understand the meaning of these mandated date labeling phrases. Thus, any change in date labeling policy must be accompanied by a robust consumer education campaign.

5. *What challenges or limitations do food manufacturers have when establishing or changing food date labels?*

For many dairy products that include date labeling, the “Use By” or “Best if Used By” date is applied to the package or label using an ink jet system. These ink jet printers often limit the length, font size and/or location of the date label statement. Any mandatory date labeling statements should be short with as few characters as possible so that existing ink jet printers can be used, minimizing to the extent possible the costs of changing labels.

Another challenge of changing date labeling is coordinating inventory through the label transition process. Food manufacturers have traditionally followed a “first in, first out” inventory system to assure that the product nearest the end of its date label period (usually the product made first) is used first. Additionally, during a label change, products with outdated labeling must be used earlier to move them through the supply chain. However, if the date labeling mandate changes, these two approaches may conflict, adding complication to the labeling transition process.

IDFA believes these challenges support a consistent nationwide approach to date labeling of food products – a Federal fix – which would require a single change in lieu of states continuing to legislate disparate date labeling requirements, creating a regulatory patchwork that is difficult for companies doing business in multiple states to navigate.

6. *Are there costs associated with changing the date label phrase or date used in addition to the costs associated with any label change? If so, please explain what those are. What data are available on the use of certain food date label phrases and cost to manufacturers, retailers, or consumers?*

If companies are required to include a specific date labeling phrase on food packages, either a quality or food safety/discard date, some will need to complete quality and shelf-life studies that include extensive product testing to determine the date that should be associated with the date labeling phrase. For some products with significant aging or long shelf lives, this testing may take months or even years to complete.

The implementation date for mandating or changing date labelling must take into consideration the aging and shelf life of a range of products. For products with months or years required for aging or with long shelf lives, such as raw milk aged cheeses and frozen products, it will take a significant amount of time for products with outdated date labeling to move through the supply chain. Consumers must be educated that they may see date labeling that is not in compliance with any new mandate as industry moves away from previous modes of date labeling and complies with the new mandate.

If the Federal government moves forward with mandating consistent date labeling for food products, this action must be accompanied by Federal preemption over existing state date labeling rules to prevent states with mandates from taking actions against companies for noncompliance and imposing and collecting fines. Without Federal preemption, costs to companies may go up as a result of fines by states when a date label declaration no longer meets the state requirements because it instead meets the Federal requirements. Also, without a Federal solution for date labeling, the current state patchwork of differing date labeling requirements increases the potential for companies to receive fines from states.

In summary, a change to a consistent nationwide approach to date labeling is desirable to reduce costs; labeling changes should be made once instead of each time a state puts in new date labeling requirements.

Conclusion

IDFA believes date labeling is an important component of food and beverage labels and is a valuable tool for providing information to consumers about food safety and quality. IDFA supports a consistent Federal approach to date labeling, using the phrases “best if used by” for quality and “use by” for food safety or as a discard date, for packages sold in retail settings. Should the Federal government move forward with mandating date labeling for food packages we urge the agencies to permit food companies to apply the phrase and date that is most appropriate for their product and allow these statements to be placed in any location on the label that is prominent and easily seen under normal conditions of retail sale by the consumer. Lastly, we urge the agencies to accompany any label changes with a robust consumer education campaign.

Sincerely,

Roberta F. Wagner

Roberta F. Wagner
Senior Vice President, Regulatory and Scientific Affairs

Appendix A:

States Regulating Date Labeling

State	Perishable Foods	Potentially Hazardous Foods	Milk/ Dairy	Meat/ Poultry	Shellfish	Eggs	Other
Alabama		X		X			X
Alaska					X		
Arizona					X	X	
Arkansas					X		
California		X	X		X	X	
Colorado						X	
Connecticut			X		X		
Delaware					X		
District of Columbia*							
Florida			X		X		
Georgia		X	X		X	X	X
Hawaii			X				
Idaho					X		
Illinois					X	X	
Indiana					X	X	
Iowa					X	X	
Kansas					X	X	
Kentucky			X		X		
Louisiana						X	
Maine					X		
Maryland			X				
Massachusetts	X	X	X	X	X	X	X
Michigan	X		X	X	X		
Minnesota	X		X		X	X	
Mississippi					X		
Missouri					X		
Montana			X		X		

Policy research for this tool was conducted by the Harvard Law School Food Law and Policy Clinic (FLPC). For more information, visit the Food Waste Policy Finder at policyfinder.refed.org/.

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States Regulating Date Labeling

State	Perishable Foods	Potentially Hazardous Foods	Milk/Dairy	Meat/Poultry	Shellfish	Eggs	Other
Nebraska					X		
Nevada		X	X		X		
New Hampshire					X		X
New Jersey			X		X		
New Mexico			X		X		
New York					X		
North Carolina					X		
North Dakota					X		
Ohio	X				X		
Oklahoma					X	X	
Oregon	X						
Pennsylvania			X		X		
Rhode Island					X		X
South Carolina					X	X	
South Dakota							X
Tennessee					X		X
Texas					X		X
Utah	X	X			X		
Vermont		X			X		
Virginia			X		X		
Washington	X						
West Virginia					X	X	
Wisconsin					X	X	
Wyoming					X		

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Appendix B: Date Labeling Examples on Dairy Products

Fluid Milk & Cream



Yogurt & Cultured Products



Cheese

American Slices: Parmesan (Shaved): Fresh Mozzarella: Gouda Cheese: Romano Cheese:



Ice Cream/Frozen Desserts



Butter



*Photos have been edited to remove brand names and plant codes.