

§ 1.377

determined using the total number of full-time equivalent employees in the entire business, not each individual location or establishment. A full-time employee counts as one full-time equivalent employee. Two part-time employees, each working half time, count as one full-time equivalent employee.

(a) The compliance date for the requirements in this subpart is June 9, 2006, for small businesses employing fewer than 500, but more than 10 full-time equivalent employees.

(b) The compliance date for the requirements in this subpart is December 11, 2006, for very small businesses that employ 10 or fewer full-time equivalent employees.

[69 FR 71651, Dec. 9, 2004, as amended at 70 FR 8727, Feb. 23, 2005]

Subpart K—Administrative Detention of Food for Human or Animal Consumption

SOURCE: 69 FR 31701, June 4, 2004, unless otherwise noted.

GENERAL PROVISIONS

§ 1.377 What definitions apply to this subpart?

The definitions of terms that appear in section 201 of the act (21 U.S.C. 321) apply when the terms are used in this subpart. In addition, for the purposes of this subpart:

Act means the Federal Food, Drug, and Cosmetic Act.

Authorized FDA representative means an FDA Division Director in whose division the article of food involved is located or an FDA official senior to such director.

Calendar day means every day shown on the calendar.

Food has the meaning given in section 201(f) of the act (21 U.S.C. 321(f)). Examples of food include, but are not limited to, fruits, vegetables, fish, dairy products, eggs, raw agricultural commodities for use as food or components of food, animal feed, including pet food, food and feed ingredients and additives, including substances that migrate into food from food packaging and other articles that contact food, dietary supplements and dietary ingre-

21 CFR Ch. I (4–1–24 Edition)

dients, infant formula, beverages, including alcoholic beverages and bottled water, live food animals, bakery goods, snack foods, candy, and canned foods.

Perishable food means food that is not heat-treated; not frozen; and not otherwise preserved in a manner so as to prevent the quality of the food from being adversely affected if held longer than 7 calendar days under normal shipping and storage conditions.

We means the U.S. Food and Drug Administration (FDA).

Working day means any day from Monday through Friday, excluding Federal holidays.

You means any person who received the detention order or that person's representative.

[69 FR 31701, June 4, 2004, as amended at 85 FR 16550, Mar. 24, 2020]

§ 1.378 What criteria does FDA use to order a detention?

An officer or qualified employee of FDA may order the detention of any article of food that is found during an inspection, examination, or investigation under the act if the officer or qualified employee has reason to believe that the article of food is adulterated or misbranded.

[76 FR 25541, May 5, 2011]

§ 1.379 How long may FDA detain an article of food?

(a) FDA may detain an article of food for a reasonable period that may not exceed 20 calendar days after the detention order is issued. However, an article may be detained for 10 additional calendar days if a greater period of time is required to institute a seizure or injunction action. The authorized FDA representative may approve the additional 10-calendar day detention period at the time the detention order is issued, or at any time within the 20-calendar day period by amending the detention order.

(b) The entire detention period may not exceed 30 calendar days.

(c) An authorized FDA representative may, in accordance with § 1.384, terminate a detention order before the expiration of the detention period.