



**Recommendations to
Ensure Food Safety
at Ontario's Farmers' Markets**

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Ontario's Farmers' Markets Food Safety Working Group

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Table of Contents

Introduction *page 4*

Background *page 5*

Objectives and Goals *page 6*

Discussion *page 7*

Recommendations *page 9*

Introduction

In 2003 the provincial government authorized Justice Roland J. Haines of the Superior Court of Justice to review the meat regulatory and inspection regimes in Ontario. Justice Haines made several recommendations on approaches that can be undertaken by the Ontario Ministry of Health and Long-Term Care to develop a better food safety system. The following recommendations address food premises issues at Farmers' Markets:

-Recommendation 35: I recommend that farmers who sell meat or poultry products directly to the public be subject to the same standards, level of inspection and food handler training requirements as any other retailer.

-Recommendation 66: I recommend that the provincial government amend the *Health Protection and Promotion Act* to require each food premises in Ontario to register with the Board of Health in the jurisdiction in which the food premises carries on business.

-Recommendation 106: I recommend that the Ministry of Health and Long-Term Care, with assistance from Boards of Health, develop, implement and require adherence to a comprehensive province-wide investigation, compliance and enforcement policy extending to all food premises.

-Recommendation 108: I recommend that the provincial government amend the *Health Protection and Promotion Act* and its *Food Premises* regulation to ensure that they apply to food businesses, which are attached to or form part of a private residence.

In April of 2005 a Working Group on Farmers' Markets was established. The Working Group consists of Farmers' Markets Ontario (FMO), Health Unit staff from Huron County Health Unit, Muskoka Simcoe District Health Unit, and Leeds, Grenville and Lanark Health Unit; members of the Association of Supervisors of Public Health Inspectors (ASPHIO), members of the Canadian Institute of Public Health Inspectors (CIPHI) and officials from the Ontario Ministry of Agriculture, Food and Rural Affairs (OMAFRA) and Ontario Ministry of Health and Long-Term Care (MOHLTC).

Background

In April 2005 the Farmers' Market Food Safety Working Group set out to address the inconsistent interpretation and application of public health regulations and their standards to food vendor operators at farmers' markets.

In May 2005 a statement was made in the Legislature suggesting the government was clamping down on rural communities to stop the sale of home-made jams, relishes, preserves and baked goods (non-potentially hazardous foods) at farmers' markets, as well as goods offered for sale or prepared for sale at fundraising events such as church dinners, potluck suppers and bake sales held to raise money for school activities.

Since the late 1980s Ontario has seen the number of farmers' markets more than double from 60 to 124. As many as 27,000 people are directly involved in preparing and selling the products you find at markets in Ontario and sales at farmers' markets total almost \$600 million, leading to an economic impact of an astounding \$2 billion ¹.

In Ontario, farmers' markets are regarded as essential in the diversification of the rural community; as adding value locally through the encouragement of farm-based food businesses; as a way of creating closer and more direct links between the farmers and consumers; as an additional retail-outlet for locally produced food and importantly, in providing consumers more variety and choice when buying their food.

A wide variety of foods are sold through farmers' markets, such as fresh fruits and vegetables, dairy products, meat, and a range of cooked products, including home-prepared foods and manufactured foods. For the most part, these markets are seasonal. Throughout the week, the operating hours can be anywhere from a half day to a full day. Generally the season runs from Mother's Day to Thanksgiving - essentially 23 weeks or the equivalent of 12 full days per year.

Due to their temporary nature and limited hours farmers' markets have tended to be inspected less frequently as other food premises which have led to them being perceived as unregulated. The growth and success of farmers' markets as food outlets and community gathering places has seen the range of items sold there expand beyond the traditional fruits, vegetables and baked goods to include prepared and food for immediate consumption.

The Working Group acknowledged the importance of ensuring food safety at farmers' markets and saw the opportunity for education and promotion of food safety and safe food handling practices for farmers' market vendors that could also be passed on to their shoppers.

¹ Farmers' Markets Ontario <http://www.farmersmarketsontario.com/about.php>

Objectives and Goals

Objective of the Working Group:

To ensure that the food consumers buy is safe to eat and free of contamination and that all food vendor operators at farmers' markets meet food safety requirements.

Goals of the Working Group:

1. To preserve a sense of community in the neighbourhoods where markets are held by providing the opportunity for producers to sell safe, high quality products directly to consumers.
2. To provide consumers a greater choice of food produce and products sold at markets.
3. To provide an opportunity for food vendor operators to acquire the knowledge of and to develop the skills needed to offer for sale a safe food product.
4. To assure reasonable consistency and uniformity within and amongst the health unit jurisdictions or municipalities when interpreting and/or applying health regulations and their standards to food vendor operators at markets.
5. To promote the adoption of best practices within the food industry at farmers' markets.
6. To identify opportunities for education and promoting safe food handling practices.
7. To strive for consistency in complying with provisions in the national *Food Retail and Food Services Code* as it relates to foodservices at farmers' markets.

Discussion

Farmers' markets fall under the definition of a "food premises" under the *Health Protection and Promotion Act*. Public health inspectors (PHIs) are required to conduct inspections of both the food and the premises in which the food is prepared, displayed and sold. This includes, but is not limited to, potentially hazardous foods such as meat, eggs, canned foods, milk and other dairy products.

The Ministry of Agriculture, Food and Rural Affairs administers and enforces a number of statutes that establish grades and sales standards for a number of commodities including milk and dairy products, meat and meat products including poultry and poultry products, eggs, fruits and vegetables, honey and maple products.

It is this matrix of sometimes complementary and sometimes independent legislation that governs the conditions under which foods can be retailed at farmers' markets or from farm premises. This sometimes makes the issues appear more complicated than they really are.

During September and October of 2005 there were a number of media stories reporting protests and petitions circulated at various farmers' markets expressing market vendor demands to be allowed to sell products at farmers' markets that can be sold from farm premises and consumers demands to be able to purchase these products at farmers' markets. The product most often mentioned was ungraded eggs.

Eggs

Unless otherwise exempted, the *Food Premises Regulation* applies to any premise, other than a private residence, where any food, including eggs, is manufactured, processed, prepared, stored, handled, displayed, distributed, transported, sold or offered for sale. Farmers' markets are not exempt nor are farm premises other than a residence on the farm. Farms selling only their own farm products in the form of honey, maple syrup, or unprocessed fruits, vegetables and grains are exempted from certain provisions in the Regulation. The exemptions are related to the provision of hot and cold running water under pressure and hand washing basins and sanitary facility requirements. The prohibition against the storing, handling, displaying, distributing, transporting, selling and offering for sale of ungraded eggs in the Regulation applies to egg farms, but not to the private residence on the egg farm.

Regulation 724 (*Eggs*) under the *Livestock and Livestock Products Act*, administered and enforced by the Ontario Ministry of Agriculture, Food and Rural Affairs, allows any egg producer to sell, offer for sale or hold in possession for sale ungraded eggs provided the eggs are produced on the producer's own farm, are clean and not leaking and are sold or offered for sale only from the farm to consumers for their own consumption.

The Food Premises Regulation and Regulation 724 present a legal catch-22 for egg producers. Egg producers in compliance with Regulation 724 may be in contravention of the *Food Premises Regulation* when they sell ungraded eggs to consumers.

Apart from the legal issues around the sale of graded and ungraded eggs, there is a food safety component to be considered. A literature review has been undertaken to determine the risks and potential consequences associated with the sale of ungraded eggs, particularly cracked eggs. Research to date indicates that with cracked eggs, time and temperature are important risk factors that could contribute to illness, such as salmonellosis.

The complexity of this issue is beyond the capacity of the working group to resolve. Its resolution will require further scientific investigation and consultation with informed and affected stakeholders including the regulated egg production industry, consumers, smaller unregulated egg producers and farmers' markets operators. Farmers' Markets Ontario's position is that farmers' markets should be considered as an extension of the farm gate and as such ungraded eggs should be permitted to be sold at farmers' markets by the producer.

Recommendations

The Working Group is requesting that the Ontario Ministry of Health and Long-Term Care, Infectious Disease Branch, consider the adoption and implementation of the following recommendations:

1. Propose that the *Food Premises Regulation* under the *Health Protection and Promotion Act* be amended in order to make exceptions, which would allow homemade non-potentially hazardous foods to be sold at a farmers' market.
2. Propose that a list of non-potentially hazardous foods which can be prepared at home and sold at a farmers' market" be provided in guidelines
3. Propose that a definition for a "farmers' market" be included in either the *Food Premises Regulation* or Guidelines.
4. Propose that a definition for "potentially hazardous food" that is scientifically based be provided in the *Food Premises Regulation* or Guidelines
5. Propose that the Ministry of Health and Long-Term Care, Infectious Disease Branch, develop standardized advice and guidance documents to be available to all Health Units and farmers' markets to foster a positive exchange of information.
6. Propose that guidelines be developed to assist in the prevention or contamination and spoiling of foods prepared at home for sale at a "farmers' market"
7. Propose standards and requirements for sinks and hand washing facilities and refrigeration for "farmers' markets" that would differ from current requirements for all food premises.
8. Propose the establishment of requirements and obligations on operators of farmers' markets to keep a list of vendors: name, address, foods offered for sale.
9. Propose a scientific literature search on eggs regarding mode of microbial contamination (transovarian (vertical transmission) and trans-shell (horizontal transmission) be conducted and should the findings indicate that ungraded eggs do not pose a health risk that the Ministry of Health and Long-Term Care and Ministry of Agriculture, Food and Rural Affairs permit the sale of ungraded eggs at farmers' markets.
10. Propose that these recommendations be considered for other "temporary food markets" including: "flea markets, roadside markets and other temporary events".

Basis of Recommendations

The recommendations were based on the following review:

- Current regulatory requirements as they exist in the *Food Premises Regulation* and the *Health Protection and Promotion Act*.
- Information collected from health units to determine what controls are already in place (i.e. guidelines) to deal with food premises issues at farmers' markets.
- Comparison of current status of regulatory requirements in Ontario for the sale of non-potentially hazardous foods and potentially hazardous foods at farmers' markets with other provinces in Canada.
- Scientific based evaluation of the definition of non-potentially hazardous and potentially hazardous foods.