



RETAIL FOODS REGULATORY CLARIFICATIONS

Retail Foods Division
Texas Department of Health

January 30, 2002
RFRC - No. 9

SUBJECT: SELLING YARD EGGS AT A FARMERS MARKET

Applicable Texas Food Establishment Rules (TFER) Sections:

Section 229.162(33) Food Establishment
Section 229.164(b)(1) Compliance with food law.
Section 229.164(c)(1) Specifications for receiving. Temperature.
Section 229.164(n)(6) Potentially hazardous food, hot and cold holding.
Section 229.171(f) Permit requirement, prerequisite for operation.

Question:

What are the requirements for selling yard eggs at a farmers market or other temporary event?

Response:

A vendor must obtain a permit issued by the regulatory authority to sell yard eggs at a farmers market. The eggs must be stored at a temperature of 45E Fahrenheit or less. The egg cartons or other containers must be labeled as "ungraded" and provide the producer's (vendor's) name and address.

Support:

The TFER, Section 229.162(33), defines a food establishment as "an operation that stores, prepares, serves, or otherwise provides food for human consumption . . ." and includes markets in the listing of operation types. A vendor that sells yard eggs at a farmers market would be operating a food establishment and would need to obtain a permit, according to TFER, Section 229.171(f).

Section 229.164(c)(1)(B) of the TFER requires that shell eggs "may be received at the temperature specified in laws governing their distribution". Texas's Good Manufacturing Practices, adopted by the Texas Board of Health, and the Texas Department of Agriculture's Egg Law require that eggs be shipped and received at an ambient temperature of 45E Fahrenheit or less.

Eggs are a potentially hazardous food and must be held at a temperature of 45E Fahrenheit or less, according to TFER, Section 229.164(n)(6)(D). The eggs, therefore, must be transported at an ambient temperature of 45E Fahrenheit or less and then be stored before sale at sufficiently cold temperatures so that the temperature of the eggs is 45E Fahrenheit or less.

Section 229.164(b)(1)(A) requires that all “food must be obtained from sources that comply with applicable laws and are licensed by the state regulatory authority having jurisdiction over the processing and distribution of the food.” The Texas Department of Agriculture (TDA) is the agency in Texas that issues licenses to persons that buy or sell eggs, to persons or facilities that grade, size and class eggs, to egg brokers and to facilities that store, pack or process eggs. The licensing requirements are part of the Egg Law, TAC Title 4, Part 1, Chapter 15.

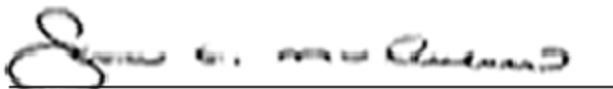
An exemption to the licensing requirements of the Egg Law, Section 15.2, is provided for producers of eggs that only sell the production of their own flock directly to the consumer. A stipulation of the exemption is that the eggs be labeled with the producer’s name and address. The labeling requirements of the Egg Law, Section 15.8, state that a producer must also label the stock cartons with the word “ungraded”, in addition to the producer’s name and address. Temperature storage requirements in The Egg Law, Section 15.7, are consistent with the storage requirements of TFER and the federal egg regulations, and require that eggs be stored at 45E Fahrenheit or less.

In summary, an egg producer that sells only ungraded eggs from their own flock to consumers at a farmers market may be exempt from licensing by the TDA, but must be permitted by TDH or the local retail food authority. The eggs must be stored at a temperature of 45E Fahrenheit or less and meet specific labeling requirements.

Response To:

Telephone inquiry from Gary Rothbart, Tarrant County Health Department

Agree to form and substance:



Steven C. McAndrew, Director
Retail Foods Division

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