Process Map - Food Regulatory Enforcement in Manitoba

In Manitoba food production is regulated by provincial and federal governments. Production facilities require permits and registrations and they are inspected by government officers. This document presents information on how the regulatory enforcement works in the province.

Principles Guiding Regulatory Enforcement
The purpose of regulatory enforcement is to promote compliance with regulatory standards. These standards have been established to protect not only the public interest, but also to ensure confidence in Manitoba's food system.

Extension and inspection roles are quite distinct, but they can and should be complementary. If there are common deficiencies being discovered through the inspection system, then that should be a trigger to re-double extension programming in that area.

Once an inspection process changes into one involving investigation or prosecution, then all other extension/promotion activities of the department involving that firm should be suspended. Formal legal processes will come into play that involve gathering evidence, taking statements, and following established justice system protocols.

The regulatory actions taken will follow the process of graduated enforcement, outlined later in this document, and will take into account an assessment of risk. Risk is comprised of two components: how likely is something to happen, and what would be the consequences if it did.

What are the risks?

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<thead>
<tr>
<th>LIKELIHOOD</th>
<th>CONSEQUENCES</th>
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<tbody>
<tr>
<td>HIGH</td>
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<td>LOW</td>
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<td>LOW</td>
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Federal Food Processing & Distribution Inspection

Manufacturers who produce food products listed under the *Canada Agricultural Products Act*, *the Fish Inspection Act* and *the Meat Inspection Act* that are to be traded internationally or interprovincially, must be registered by the Canadian Food Inspection Agency (CFIA). It can range from agricultural inputs, such as seeds, feeds and fertilizers, to fresh foods (including meat, fish, eggs, grains, dairy products, fruit and vegetables), and prepared and packaged foods.

Federal registration is the sole jurisdiction of the CFIA. It allows a manufacturer, distributor or importer to sell their product within Manitoba, within Canada or they can export their product to another country, if they meet the requirements of the importing country.

Federal Acts and Regulations

Federally-registered establishments are regularly inspected by the CFIA to ensure the compliance with Federal Acts and Regulations including:

- *Food and Drugs Act* is a consumer protection statute which deals with health, safety and economic fraud with respect to food, drugs, cosmetics and medical devices.
  - Food and Drug Regulations
  - Natural Health Products Regulations

- *Consumer Packaging and Labelling Act* is a consumer protection statute which deals with economic fraud with respect to the packaging, labelling, sale, importation and advertising of prepackaged and certain other products.
  - Consumer Packaging and Labelling Regulations

- *Meat Inspection Act* regulates the importing and exporting of any interprovincial trade of meat and meat products.
  - Meat Inspection Regulations, 1990

- *Canada Agricultural Products Act* is designed to establish national standards and grade for agricultural products and to regulate the marketing of agricultural products in import, export and interprovincial trade.
  - Dairy Products Regulations
  - Egg Regulations
  - Fresh Fruit and Vegetable Regulations
  - Honey Regulations
  - Maple Products Regulations
  - Organic Products Regulations
  - Processed Egg Regulations
  - Processed Products Regulations
Provincial Food Processing & Distribution Inspection

Any facility or location where food products are manufactured, processed, prepared, packaged, stored or serviced is considered a food premise. This includes food service and food retail establishments such as restaurants, cafes, take-outs, catering facilities, mobile vending carts, grocery stores, farmers markets and temporary food events at fairs or festivals which Manitoba Health is responsible for.

Food handling establishments such as food processing plants, meat processing plants, slaughterhouses, warehouses and transportation vehicles are the responsibility of Manitoba Agriculture, Food and Rural Initiatives (MAFRI).

Food processing establishments under MAFRI’s jurisdiction are inspected by health officers on a regular basis to ensure compliance with the Food and Food Handling Establishments Regulation under The Public Health Act. Health Officers determine if minimum standards and practices are being followed with respect to general food handling, storage temperature, sanitation, employee hygiene, equipment maintenance and environmental controls. Also under the Dairy Act and Dairy Regulation MAFRI inspects licensed dairy farms.

The meat inspection program monitors meat safety, animal health and the humane treatment of animals in Manitoba’s slaughtering plants. Only meat from a registered slaughtering plant (abattoir) may be sold for public consumption. All abattoirs must be registered in a meat inspection program.

Permits

Anyone wishing to commercially manufacture, process, or package food products for human consumption, and is not federally-registered or permitted by another jurisdiction is required to have a provincial food permit through MAFRI. There is no cost associated to obtain a permit.

MAFRI’s website contains supporting documentation for those wishing to start a food processing operation. It includes:

- facility registration form
- guidelines for the design, construction and reconstruction of a food establishment
- transportation of potentially hazardous foods guideline
- federal/provincial/territorial model codes related to different food processing commodities

Acts and Regulations in Manitoba

The provincial laws dealing with food production include:
- **The Public Health Act** is the enabling legislation for food and food handling establishments including abattoirs.
  - Food and Food Handling Establishments Regulation
  - Water Supplies Regulation

- **The Dairy Act** is the enabling legislation for dairy farm and dairy processor to produce quality dairy products.
  - Dairy Regulation

- **The Livestock and Livestock Products Act** is the enabling legislation for animal operation.
  - Honey Regulation
  - Poultry Products Regulation
  - On-Farm Food Safety Regulation
  - Safe Livestock and Livestock Products Regulation

- **The Livestock Industry Diversification Act** is the animal protection statute for game production animal.
  - Importation Requirements for Game Farmed Elk (Slaughter)

- Meat Inspection Agreement (Manitoba) is a federal-provincial program to provide meat inspection service to domestic plants for intra-provincial trades.
  - Standards for Planning and Locating Plants
  - General Plant Constructions Standards
  - Plant Operational Guidelines

**MAFRI and Manitoba Health Joint Efforts**

MAFRI has conducted extensive work in collaboration with Manitoba Health in regards to a harmonized food inspection system. This work is essential to meet the Office of Auditor General report recommendations and to ensure a consistent food safety inspection system throughout the province. MAFRI food safety inspection systems and Manitoba Health use a common inspection database (Hedgehog) where inspection results are recorded. Also, in conjunction with Manitoba Health, a number of joint policies and procedures have been drafted and implemented.

**MAFRI’s Inspection Process**

It is the responsibility of regulated parties to comply with the relevant legislation related to food safety. The regulatory function of food safety inspection requires that Health Officers conduct consistent and standardized inspection activities and associated enforcement related to infractions, regardless of geographic area of the province. In most situations deficiencies can be resolved at the time of inspection or shortly thereafter through discussion with and education of the owner/operator.
The MAFRI and Manitoba Health established protocols describe different inspection activities to ensure that a consistent approach is utilized in all food inspections.

In July 2012, MAFRI adopted a risk-based inspection system for food processing and distribution establishments following the recommendations of the Office of Auditor General report. The risk-based inspection system determines risk level on these factors:

- type of manufacturing process
- type of structure and processing equipment
- size of operation
- past history of compliance
- level of training for staff, and type of establishment (ex: bakery, bottler, grain processor, etc)

Before conducting an inspection, a Health Officer performs a risk assessment. The risk assessment frequency is 24 months or when major changes have occurred to a facility that may cause change to risk. The risk levels considered include three levels: low, medium and high. This will require inspection to be performed one to three times per year as follows:

**Routine Inspection Frequency**

<table>
<thead>
<tr>
<th><strong>Most food processing facilities</strong></th>
<th><strong>Frequency</strong></th>
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<tbody>
<tr>
<td>Low Risk</td>
<td>1 time per year (12 months)</td>
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<tr>
<td>Medium Risk</td>
<td>2 times per year (6 months)</td>
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<tr>
<td>High Risk</td>
<td>3 times per year (4 months)</td>
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<table>
<thead>
<tr>
<th><strong>Micro-processor * and food distributors</strong></th>
<th><strong>Frequency</strong></th>
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<tbody>
<tr>
<td>Low Risk</td>
<td>Biannual (24 months)</td>
</tr>
<tr>
<td>Medium Risk</td>
<td>1 time per year (12 months)</td>
</tr>
<tr>
<td>High Risk</td>
<td>2 times per year (6 months)</td>
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* A micro-processor is defined as an operation where processing takes place a couple of times a year, ex: less than 10 days.

**Types of Provincial Inspections**

As of September 2013, there are approximately 450 non-federally registered processing and distribution facilities in Manitoba. MAFRI’s Health Officers conduct different types of inspections including:
- Regular inspections
- Follow up re-inspections
- Inspections based on public complaints
- Requested inspections based on the sale of a facility. The potential purchaser requires a report on the conditions of the facility. This inspection is done with the consent of the current owner of the facility. Rarely occurs.

MAFRI conducted 365 inspections in 358 facilities in the 2012/13 fiscal year. There were 64 major non-compliances found after inspection, 12 warning letters were given and no offence notices (tickets) were issued.

**Regulatory Enforcement**

Legislation and regulations provide for escalating levels of enforcement action depending upon the severity of the hazard/infraction and the compliance (or non-compliance) response by the owner/operator of the food processing establishment.

Follow-up by a Health Officer is critically important related to any compliance dates in this continuum of enforcement. Higher levels of enforcement are to be applied if the hazard/infraction is significant or the owner/operator is not complying. Enforcement action may end in legal action.

A respectful, fair and balanced approach is followed, giving more weight to food safety/preparation issues rather than non-critical deficiencies such as, floor tiles, light bulbs.

Health Officers apply the legislation with an emphasis on food safety, disease and injury prevention and take action in proportion to the nature and severity of the infraction. Risk-based judgment is also used.

The protocol: Levels of Enforcement – Inspection Outcome, describes the steps that Health Officers need to take when non-compliances occur. The main actions to follow include:

1. Written inspection report which identifies the inspection findings and the issue (s) requiring compliance.

2. If there are specific critical findings, a re-inspection, specified by date, is scheduled.

3. Warnings and/or Negotiated Compliance are issued related to a specific section of the Act or regulation involved that is not in compliance. Requirements to be met by the owner/operator are dated.

4. Offence Notices (Tickets) are issued for infractions related to *The Public Health Act* and the *Food and Food Handling Establishment Regulation* that are listed in the Offence Notice Regulation Schedule P210 under *The Summary Convictions Act*. 
5. Closure of an establishment can occur based on evidence of a critical hazard. A critical hazard is considered an immediate threat to public health.

6. Health hazard orders may be issued where there is a reasonable belief that a health hazard exits or might exist. Under the Public Health Act a health hazard means

- a condition of a place or premises
- a plant, animal or other organism
- a substance or thing
- a solid, liquid or gas, or any combination of them or
- an activity, condition or process

that presents or might present a threat to public health.

Health hazard orders may require a person to do or cause to be done, or refrain from doing anything that is reasonably considered by the Health Officer to be necessary to prevent, eliminate, remedy, reduce or otherwise deal with the health hazard.

7. Formal Prosecution is the highest order of enforcement and would involve the Prosecutions Office for review and input. Circumstances resulting in prosecution would include very serious circumstances such as death or serious harm to a person, the public or environment, obstruction, fraud, concealment/destruction of evidence, failure to comply with an order or continual non-compliance with prior offence notices.

The escalating enforcement approach is presented in the following figure:
Information Available to the Public

The public has access to detailed information on how provincial and federal inspection work and the applicable legislation. This information can be found on the MAFRI website under the Regulating Food Section (manitoba.ca/agriculture/food-safety/regulating-food.html).

MAFRI publishes under the Health Protection Reports, administered by Manitoba Health, information on closures and convictions for provincially permitted food facilities. The public has access to this information housed under the Manitoba Health website via links available on the MAFRI website.

Other MAFRI Groups Providing Support to Inspection Services

CVO/Food Safety Knowledge Centre – Food Safety Programs

Under the Growing Forward programming, the Food Safety Programs play an important role in providing technical support to the Agri-Food Processing Sector in Manitoba. Food Safety Analysts work with small, medium and large scale operations to address any food safety concerns and provide food safety training. This training can be customized based on particular needs.

Also a wide variety of educational materials are available to support the understanding of technical information required to meet regulations in order to manufacture safe food.

Commercialization

New and experienced food entrepreneurs have the opportunity to make products in licensed government establishments. Entrepreneurs can rent available equipment and space at two centres to make food products on a larger scale for sale into the retail or foodservice market.

a) Food Development Centre

The Food Development Centre (FDC) is federally regulated by the CFIA as a fruit and vegetable, honey and meat processing establishment. Through Health Canada, the centre is licensed to process hemp including its grain, oil, flour, protein, beverage and butter. The facility is also certified organic.

FDC supports clients to meet regulatory requirements by:

- interpreting compositional, labelling, packaging and advertising regulations
- nutritional labelling
- physical and chemical testing
• identify health and nutrient claims as marketing advantages

b) Swan River Food Processing Centre

The Food Processing Centre (FPC) in Swan River is a licensed commercial kitchen where entrepreneurs can produce food for sale in retail or food service outlets within Manitoba.

Services and facilities available include:
• a local, licensed kitchen meeting provincial food safety requirements
• professional expertise in business planning and product and process development, food labelling and marketing
• specialized food processing equipment