June 15, 2006

To: All Medical Officers of Health
    Directors of Environmental Health

I am writing in follow-up to the recent announcement by the Honourable George Smitherman, Minister of Health and Long-Term Care, regarding amendments to Regulation 562 (Food Premises) under the Health Protection and Promotion Act (HPPA).

The amendment to the Food Premises Regulation was filed on June 15, 2006 and is attached for your reference. In summary, this amendment will:

- Exempt farmers’ market food vendors from the Food Premises Regulation
- Define farmers’ markets and farm product vendors
- Expand the current exemption for churches, service clubs, and fraternal organizations that prepare or serve meals at special events for members and their personally invited guests by:
  - Expressly exempting events that are open to the general public
  - Replacing the term “churches” with “religious organizations”
  - Requiring organizers of special events to which the general public is invited and at which potentially hazardous food is served to:
    - post a notice stating whether or not the food premise has been inspected by public health, and
    - keep a log of the providers of potentially hazardous foods and provide it upon request to a public health inspector.

I know that many public health units have good working relationships with local market managers/vendors and organizers of community special events. I urge you to continue to keep these lines of communication open and to build on our shared interest in food safety. Public health staff are encouraged to conduct friendly visits to local markets and community events to educate those involved on good food safety practices. To supplement these activities, the Ministry will be proceeding with a food safety education campaign, and details about this will be provided to you in the near future.

Health hazard and related food safety protections will continue to apply under Part III of the HPPA. Current prohibitions against the sale of ungraded eggs under the Livestock and Livestock Product Act and against the sale of uninspected meat under the Food Safety and Quality Act will continue to apply in farmers’ markets and other venues that are exempted from the Food Premises Regulation.

Public health inspectors will continue to investigate complaints about farmers’ market operations and other exempted community-based events and take appropriate measures, on a case by case basis, if a health hazard is identified.
Definitions related to the exempted sites are included in the attachment. I urge public health inspectors to focus efforts in all community-based settings primarily on high risk foods (e.g. meats, dairy, eggs and fish) rather than low risk foods (e.g. muffins, breads, jams, etc) and on those items critical to food safety. Public Health staff will also be expected to emphasize food safety awareness and education as a first priority.

In recognition of the need for ongoing dialogue with public health inspectors and medical officers of health as these changes come into effect, we will be working with the Association of Supervisors of Public Health Inspectors of Ontario (ASPHIO), the Ontario Branch of the Canadian Institute of Public Health Inspectors (CIPHI), and with Ryerson University’s School of Occupational and Public Health to provide opportunities for dialogue and information exchange across the field. You will receive further details in the near future on a forum for discussion among public health inspectors and their supervisors on their implementation experiences and to help disseminate information on best practices. We will also continue to discuss key issues at our monthly MOH teleconferences and at other stakeholder forums.

The Ministry will be monitoring the impact of these amendments over the course of the summer. Surveillance tools are being developed to help us monitor complaints, investigations and any use of Orders under the HPPA. This information will be essential for us to evaluate the impact of these exemptions on the health of the public and to gauge the successes and operational challenges you experience. Furthermore, to assist with the monitoring of incidents of food-borne illness, we will be updating the exposure setting type field on iPHIS. Further information will follow in an upcoming issue of the iPHIS Notice.

Finally, let me emphasize the importance and value the Ministry places on the role of the public health inspector. I wish to express my personal gratitude to these hard-working individuals who play such a pivotal role in protecting the health of the public and promoting proper food safety practices. We support your work and are keen to assist you further through any operational guidance we can provide.

For technical assistance regarding the Food Premises Regulation, please contact Alison Samuel, Senior Inspection Consultant, Public Health Division at (416) 327-8699.

Yours truly,

Dr. Sheela V. Basrur
Chief Medical Officer of Health and
Assistant Deputy Minister

c: Hon. George Smitherman, Minister of Health and Long-Term Care
Hon. Leona Dombrowsky, Minister of Agriculture, Food and Rural Affairs
Hon. Jim Watson, Minister of Health Promotion
Ron Sapsford, Deputy Minister of Health and Long-Term Care
Bruce Archibald, Deputy Minister, OMAFRA
Marg Rappolt, Deputy Minister of Health Promotion
Ken Gorman, President, ASPHIO
Mike Duncan, President, CIPHI (Ontario Branch)
Pat Vanini, Executive Director, AMO
Dana Richardson, Assistant Deputy Minister, Prov/Municipal Relations, MMAH
McGuinty Government Exempts Farmers’ Markets and Community Groups from Rigid Regulations
Public Education to Support Food Safety

TORONTO – The McGuinty government is ensuring that farmers’ markets and community groups will be able to operate as they have for decades, while at the same time protecting the public’s health, Health and Long-Term Care Minister George Smitherman announced today.

The government has exempted farmers’ markets from rules that apply to restaurants and other commercial establishments through amendments to Regulation 562 (Food Premises) under the Health Protection and Promotion Act (HPPA). This will ensure that farmers’ markets are not held to unrealistic standards developed for very different types of retail establishments like grocery stores and restaurants.

“We know Ontarians grow, sell and enjoy eating locally produced foods,” said Smitherman. “We have heard the concerns raised by people who operate farmers’ markets and run community events. The exemption we’re creating allows them the freedom to continue their proud tradition of providing a wide range of high quality goods to the public.”

The government has also expanded the exemption in the existing Food Premises Regulation to include religious organizations, service clubs and fraternal organizations where events such as picnics, fairs and church suppers are open to the public.

The exemption does not apply to laws prohibiting the sale of uninspected meats, unpasteurized milk or ungraded eggs.

“We know that farm market vendors and organizers of community events believe in food safety and want to provide food that is wholesome and safe,” Smitherman said. “That’s why we will be working with these groups to promote food safety. At the same time we will ensure that public health officials have the authority they need to safeguard the public’s health.”

Beginning this summer the ministry will undertake a $1.5 million education campaign to widely promote safe food handling and preparation practices at farmers’ markets and community-based events.

Local public health officials will continue to investigate complaints, and take appropriate measures if a health hazard is identified. Public health inspectors will also be working with farmers’ markets and local community groups to provide outreach and advice on food safety.
This is just the latest example of how the McGuinty government is on the side of Ontario families concerned about their health. Other initiatives include:

- The creation of 150 Family Health Teams which will improve access to primary care for more than 2.5 million Ontarians in 112 communities
- An additional $110 million in funding for public health mandatory and related programs as part of our commitment of covering 75% of public health funding by 2007
- Providing $75 million over three years to create an additional 22 Community Health Centres and 17 satellites to improve access to the full range of primary care services, including health promotion and disease prevention
- The Ontario Universal Influenza Immunization Program, which provides free influenza vaccine to all individuals aged 6 months or older who live, work or attend school in Ontario.

This initiative is part of the McGuinty government’s plan to build a health care system that reflects the needs of patients and communities, and will keep Ontarians healthy for generations to come.

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This news release, along with other media materials, such as matte stories and audio clips, on other subjects, are available on our website at: http://www.health.gov.on.ca under the News Media section.

For more information on achievements in health care, visit: www.resultsontario.gov.on.ca.
Appendix: Definitions
Food Premises Regulation

A. Definitions in the Food Premises Regulation:

The following definitions are included in the Regulation:

- "farmers' market" means a central location at which a group of persons who operate stalls or other food premises meet to sell or offer for sale to consumers products that include, without being restricted to, farm products, baked goods and preserved foods, and at which the majority of the persons operating the stalls or other food premises are producers of farm products who are primarily selling or offering for sale their own products.

- "farmers' market food vendor" means the operator of a stall or other food premise that is located at a farmers' market.

- "farm products" means products that are grown, raised or produced on a farm and intended for use as food and include, without being restricted to, fruits and vegetables, mushrooms, meat and meat products, dairy products, honey products, maple products, fish, grains and seeds and grain and seed products.

B. Common Definitions of Other Related Terms:

The following definitions are not incorporated into the Regulation, but rather are either dictionary definitions or are definitions that are provided in other pieces of legislation or in case law:

- "religious organization" is defined in the Income Tax Act as an organization, other than a registered charity, of which a congregation is a constituent part, that adheres to beliefs, evidenced by the religious and philosophical tenets of the organization, that include a belief in the existence of a supreme being.

- "fraternal organization" was interpreted in Union Club of BC v. Saanich (1993) 85 BCLR (2d) 167 at 171, as being any organized body of men (or of women, or both) who are banded together, not for pecuniary profit, but for mutual assistance, and to promote moral, intellectual or social benefits among the members.

- "service club" is defined in Webster's Dictionary as any of several organizations dedicated to the growth and general welfare of its members and the community.
GOVERNMENT MESSAGING RE: EXEMPTION ANNOUNCEMENT

- Ontario is proud of the wide range of high quality foods our farmers and farm businesses produce. Many of these are offered at increasingly popular farmers’ markets.

- Farmers’ markets are a proud tradition in rural Ontario. Because of their distinct nature and emphasis on homemade food products, it makes sense that rules governing their operations be less onerous than those applied to large, commercial enterprises such as groceries and supermarkets.

- Similarly, meals prepared by volunteers in religious organizations, service clubs and fraternal organizations for the benefit of their members, guests and the public are different in nature from those prepared by commercial enterprises like restaurants.

- Effective June 15, 2006 the government is exempting farmers’ market food vendors from the Food Premises Regulation and broadening the exemption that already exists for other key community groups to apply to special events which are open to the public.

- This market season, local public health officials will be encouraged to reach out to community groups and pay visits to farmers’ markets to promote safe food preparation and handling practices.

- At the same time, public health inspectors will continue to have the duty and authority to inspect farmers’ markets and community events, to investigate complaints, and to intervene on a case by case basis if a health hazard exists.

- It’s important to remember that we expect our public health inspectors to employ common sense in dealing with these events. Nobody is looking to deprive Ontarians of the farmers markets and other community events that are so critical a part of our heritage.

- The sale of uninspected meats, unpasteurized milk and ungraded eggs at farmers’markets continues to be prohibited.
June 15, 2006

FOOD PREMISES REGULATION AMENDMENTS

The government is protecting farmers’ markets from the rigid requirements of Regulation 562 (Food Premises) under the Health Protection and Promotion Act (HPPA). The government has also expanded the current exemption provided in the Food Premises Regulation for religious organizations, service clubs and fraternal organizations where special events are open to the public. Regulation 562, in place under the HPPA since 1984, spells out food storage, handling, sanitation, and preparation provisions for food premises for large operations like supermarkets and restaurants.

Beginning this summer the ministry will undertake a proactive $1.5 million education campaign to widely promote safe food handling and preparation practices at farmers’ markets and community-based events.

**Farmers’ Markets**

Recognizing the distinct nature of farmers’ markets, the government has exempted them from having to follow the requirements of the Food Premises Regulation under the HPPA.

While market vendors are now exempted from the Food Premises Regulation, the HPPA will still apply. The sections that are particularly relevant are:

- Section 10 (duty to inspect re: health hazards),
- Section 13 (power to issue an order re: health hazard)
- Section 16 (intent to commence the operation),
- Section 17 (prohibition on sale of food unfit for consumption)
- Section 18 (prohibition on sale of unpasteurized milk and milk products)

The sale of uninspected meats, unpasteurized milk and ungraded eggs at farmers’ markets continues to be prohibited. Public health inspectors will continue to have the duty and authority to investigate and intervene – on a case by case basis - should a health hazard exist.

**Religious Organizations, Service Clubs, and Fraternal Organizations**

Previously, religious organizations, service clubs and fraternal organizations fell under the Food Premises Regulation when they prepared and served meals for special events that were open to the general public. Now, decades-old events like pot luck suppers and bake sales held by these organizations are exempted from the regulation and will be protected from overly-aggressive inspections from public health officials.

When high risk food is served at a special event that does not originate from a food premise that is
inspected under the Food Premises Regulation, these organizations are now required to post a notice stating whether or not the facilities have been inspected by the local public health unit. They will also be required to keep a log of providers of high risk foods to be given to the local public health inspector upon request.

**Foods considered high risk**

Food items deemed high risk are generally those that contain raw eggs, dairy products, meat, poultry and fish. Some examples would include the following:

- Cakes/pastries with whipped cream, cheese or synthetic cream fillings
- Dairy products (e.g., milk, cream, cheese, yogurt)
- Food containing raw eggs as ingredients (e.g., custards, salads)
- Fresh or processed meat, sausages.

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ONTARIO REGULATION

made under the

HEALTH PROTECTION AND PROMOTION ACT

Amending Reg. 562 of R.R.O. 1990

(Food Premises)

Note: Regulation 562 has previously been amended. Those amendments are listed in the Table of Regulations – Legislative History Overview, which can be found at www.ontario.ca/laws.gov.on.ca.

1. Subsection 1 (1) of Regulation 562 of the Revised Regulations of Ontario, 1990 is amended by adding the following definitions:

“farmers’ market” means a central location at which a group of persons who operate stalls or other food premises meet to sell or offer for sale to consumers products that include, without being restricted to, farm products, baked goods and preserved foods, and at which the majority of the persons operating the stalls or other food premises are producers of farm products who are primarily selling or offering for sale their own products;

“farmers’ market food vendor” means the operator of a stall or other food premise that is located at a farmers’ market;

“farm products” means products that are grown, raised or produced on a farm and intended for use as food and include, without being restricted to, fruits and vegetables, mushrooms, meat and meat products, dairy products, honey products, maple products, fish, grains and seeds and grain and seed products;

2. (1) Subsection 2 (1) of the Regulation is amended by striking out “and” at the end of clause (b) and by revoking clause (c) and substituting the following:


(c) food premises owned, operated or leased by religious organizations, service clubs and
fraternal organizations where the religious organization, service club or fraternal
organization,

(i) prepares and serves meals for special events, and

(ii) conducts bake sales; and

(d) farmers’ market food vendors.

(2) Section 2 of the Regulation is amended by adding the following subsection:

(3) The exemption provided for in clause (1) (c) is subject to the conditions set out in
paragraphs 1 and 2 if a religious organization, service club or fraternal organization mentioned
in that clause prepares and serves meals for a special event to which the general public is
invited, and hazardous food that originates from a food premise that is not inspected under this
Regulation is included in such a meal:

1. Patrons attending the special event shall be notified in writing as to whether or not the
food premise has been inspected in accordance with this Regulation. The notice shall
be posted in a conspicuous place at the entrance to the food premise at which the
special event meal is held.

2. The operator must keep a list of all persons who donate hazardous food for the special
event meal and must provide a copy of that list to a public health inspector on request.
The list must contain each donor’s name, address and telephone number in full.