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DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

- 1) Heading of the Part: Food Service Sanitation Code
- 2) Code Citation: 77 Ill. Adm. Code 750
- 3) 

<u>Section Numbers:</u>	<u>Adopted Action:</u>
750.5	Amendment
750.10	Amendment
750.110	Amendment
750.120	Amendment
750.140	Amendment
750.150	Amendment
750.151	New
750.152	New
750.153	New
750.188	New
750.189	Amendment
750.208	New
750.210	Amendment
750.240	Amendment
750.250	Amendment
750.310	Amendment
750.325	New
750.340	New
750.350	New
750.360	New
750.370	New
750.510	Amendment
750.512	New
750.514	New
750.516	New
750.520	Amendment
750.530	Amendment
750.540	Amendment
750.551	Amendment
750.2030	Amendment
750.2040	Amendment
750.3200	Amendment
- 4) Statutory Authority: Authorized by and implementing the Illinois Food, Drug and Cosmetic Act [410 ILCS 620] and the Sanitary Food Preparation Act [410 ILCS 650] and

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authorized by Section 21 of the Illinois Food, Drug and Cosmetic Act [410 ILCS 620/21] and Section 11.1 of the Sanitary Food Preparation Act [410 ILCS 650/11.1] and the Food Handling Regulation Enforcement Act [410 ILCS 625].

- 5) Effective Date of Rulemaking:
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this (these) amendment(s) contain incorporations by reference? Yes
- 8) A copy of the adopted amendment including any material incorporated is on file and available for public inspection at the Illinois Department of Public Health, 525 W. Jefferson Street, Springfield, Illinois 62761-0001.
- 9) Notice(s) of Proposed Published in the Illinois Register:  
31 Ill. Reg. 9778 – July 13, 2007
- 10) Has JCAR issued a Statement of Objections to these rules? No
- 11) Difference(s) between proposal and final version:

In response to comments received during the first notice or public comment period, the following changes were made:

In the table of contents, insert “750.516 Hand Antiseptics” and “750.325 Special Requirements for Highly Susceptible Populations”

In Section 750.5(b), insert

- J) 21 CFR 170.39 – Threshold of regulation for substances used in food-contact articles;
- K) 21 CFR 178 – Indirect Food Additives: Adjuvants, Production Aides, and Sanitizers as regulated for use as a food additive with conditions of safe use;
- L) 21 CFR 182 – Substances Generally Recognized as Safe;
- M) 21 CFR 184 – Direct Food Substances Affirmed as Generally Recognized as Safe;
- N) 21 CFR 186 – Indirect Food Substances Affirmed as Generally Recognized as Safe for use in contact with food.

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In Section 750.10, insert ““Balut” means an embryo inside a fertile egg that has been incubated for a period sufficient for the embryo to reach a specific stage of development after which it is removed from the incubation before hatching.”

In Section 750.10, insert ““Beverage” means a liquid for drinking, including water.”

In Section 750.10, insert ““Consumer” means a person who is a member of the public, takes possession of food, is not functioning in the capacity of an operator of a food establishment or food processing plant, and does not offer the food for resale.”

In Section 750.10, insert ““Egg” means the shell egg of avian species such as chicken, duck, goose, guinea, quail, ratites or turkey. The term does not include a Balut; the egg of reptile species such as alligator; or an egg product.”

In Section 750.10, “Egg Product” means all, or a portion of, the contents found inside eggs separated from the shell and pasteurized in a food processing plant, with or without added ingredients, intended for human consumption, such as dried, frozen or liquid eggs. The term does not include food which contains eggs only in a relatively small proportion such as cake mixes.”

In Section 750.10, insert ““Hazard” means a biological, chemical, or physical property that may cause an unacceptable consumer health risk.”

In Section 750.10, insert ““Juice” means the aqueous liquid expressed or extracted from one or more fruits or vegetables, purées of the edible portions of one or more fruits or vegetables, or any concentrates of such liquid or puree. The term does not include, for purposes of HACCP, liquids, purées, or concentrate that are not used as beverages or ingredients of beverages.”

In Section 750.10, insert ““Pasteurized shell eggs” means eggs still in their shells which have been heat treated to destroy Salmonella enteritidis to the FDA standard of 5-log reduction and, thus, are exempt from status of a potentially hazardous food because no viable Salmonellae exist.”

In Section 750.10, in the definition of “Potentially hazardous food,” insert “requires time/temperature control for safety that” after “any food that” and change “Enteritidis” to “enteritidis” and insert “cut tomatoes,” after “raw seed sprouts” and insert “Are eggs with shell intact that have been pasteurized to destroy all viable salmonellae.”

In Section 750.10, in the definition of “Sanitization,” insert “at least” after “a reduction

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of”

In Section 750.110(c), insert “pasteurized shell, pasteurized” after “pasteurized liquid,” and delete “dry eggs or”

After Section 750.110(k), insert

- 1) Pasteurized shell eggs or egg products shall be substituted for raw eggs in the preparation of foods such as Caesar salad, hollandaise or Bearnaise sauce, mayonnaise, meringue, eggnog, ice cream, and egg-fortified beverages that are:
  - 1) Not properly cooked to 145°F (63°C) or above for 15 seconds for shell eggs that are broken and prepared in response to a consumer’s order and for immediate service;
  - 2) Not properly cooked to 155°F (68°C) or above for 15 seconds for shell eggs that are not prepared for immediate service; or
  - 3) Not Included in a consumer advisory as described in section 750.110 (k).

In Section 750.152(a) delete “either of”

After Section 750.153(a), insert “1) The food shall have an initial temperature of 41°F (5°C) or less if removed from cold holding temperature control, or 135°F (57°C) or greater if removed from hot holding temperature control; and renumber subsequent subsections

In Section 750.153(b), delete “may not” and insert “shall not” after “conjunction with temperature,”

In Subpart B: Food Supplies, after Section 750.320, add "750.325 Special Requirements for Highly Susceptible Populations".

After Section 750.310 Milk and Cream Dispensing, insert

**“Section 750.325 Special Requirements for Highly Susceptible Populations**

In a food establishment that serves a highly susceptible population:

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- a) The following criteria apply to juice:
  - 1) For the purposes of this paragraph only, children who are age 9 or less and receive food in a school, day care setting, or similar facility that provides custodial care are included as highly susceptible populations;
  - 2) Prepackaged juice or a prepackaged beverage containing juice, that has not been specifically processed to prevent, reduce, or eliminate the presence or pathogens, or a packaged juice or beverage containing juice may not be served or offered for sale.
- b) Pasteurized eggs or egg products shall be substituted for raw eggs in the preparation of foods using raw or undercooked shell eggs.
- c) Time only, as the public health control as specified under section 750.153, may not be used for raw eggs.”

After Section 750.514 Where to Wash Hands, insert

**“Section 750.516 Hand Antiseptics**

- a) A hand antiseptic used as a topical application, a hand antiseptic solution used as a hand dip, or a hand antiseptic soap shall:
  - 1) Comply with one of the following:
    - a. Be an approved drug that is listed in the FDA publication “Approved Drug Products with Therapeutic Equivalence Evaluations” as an approved drug based on safety and effectiveness; or
    - b. Have active antimicrobial ingredients that are listed in the FDA monograph for OTC Health-Care Antiseptic Drug Products as an antiseptic handwash; and
  - 2) Comply with one of the following:
    - a. Have components that are exempted from the requirement of being listed in federal food additive regulations as specified in 21 CFR 170.39 – Threshold of regulation for substances used in food-contact articles; or

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- b. Comply with and be listed in:
  - i) 21 CFR 178 – Indirect Food Additives: Adjuvants, Production Aides, and Sanitizers as regulated for use as a food additive with conditions of safe use, or
  - ii) 21 CFR 182 – Substances Generally Recognized as Safe, 21 CFR 184 – Direct Food Substances Affirmed as Generally Recognized as Safe, or 21 CFR 186 – Indirect Food Substances Affirmed as Generally Recognized as Safe for use in contact with food, and
- 3) Be applied only to hands that are cleaned as specified under Section 750.510.
- b) If a hand antiseptic or a hand antiseptic solution used as a hand dip does not meet the criteria specified under 750.516(a)(2) of this section, use shall be:
  - 1) Followed by thorough hand rinsing in clean water before hand contact with food or by the use of gloves; or
  - 2) Limited to situations that involve no direct hand contact with food by the bare hands.”

After Section 750.5(c), add:

- 4) "Approved Drug Products with Therapeutic Equivalence Evaluations", prepared by the Center for Drug Evaluation and Research, U.S. Food and Drug Administration (available on-line at <http://www.fda.gov/cder/ob/default.htm>).
- 5) Tentative Final Monograph: "Topical Antimicrobial Drug Products for Over-the-Counter Human Use: Health-Care Antiseptic Drug Products", prepared by the Center for Drug Evaluation and Research, U.S. Food and Drug Administration (available on-line at [http://www.fda.gov/cder/otcmonographs/category\\_sort/antimicrobial.htm](http://www.fda.gov/cder/otcmonographs/category_sort/antimicrobial.htm))." .

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In Section 750.325(a)(2), change "Prepackaged juice, or a prepackaged" to "Packaged juice, or a packaged" and change "presence or pathogens" to "presence of pathogens".

Change Section 750.516(a)(1)(a) and Section 750.516(a)(1)(b) to:

- A) Be an approved drug that is listed in "Approved Drug Products with Therapeutic Equivalence Evaluations" as an approved drug based on safety and effectiveness; or
- B) Have active antimicrobial ingredients that are listed in OTC Health-Care Antiseptic Drug Products as an antiseptic handwash; and".

Also, various typographical, grammatical, and form changes were made in response to the comments from JCAR regarding the Department's second notice submission.

- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreements issued by JCAR? Yes
- 13) Will this rule replace an emergency rule currently in effect? No
- 14) Are there any amendments pending on this Part? No
- 15) Summary and Purpose of Rule(s):  
These rules establish definitions; define regulatory requirements for inspectors conducting inspections of food service establishments regarding management and personnel, food operations, and equipment and facilities; and employee restrictions as they apply to ill personnel. The purpose of this Code is to safeguard public health by providing consumers with food that is safe, unadulterated and honestly presented, which will prevent illnesses caused from ingesting food. The proposed amendments consist of changes in temperature requirements of potentially hazardous food items and in the definition of a potentially hazardous food item. These proposed changes are supported by current science as submitted at the National Conference for Food Protection (CFP) and are contained in the federal Food and Drug Administration's Model Food Code.

The recommendations of the CFP are nationally accepted and incorporated into the FDA Model Food Code, which is re-written every four years, with a supplement that comes out every two years. The proposed changes to the Illinois Code are based upon the FDA Model Food Code. The FDA Model Food Code is an important part of the strategy for achieving uniform national food safety standards and for enhancing the efficiency and effectiveness of our nation's food safety system. The FDA Model Food Code reflects the

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current science, emerging food safety issues and imminent health hazards related to food safety.

Regulations related to the temperatures of potentially hazardous foods, time as a public health control, date marking, and the definition of potentially hazardous food items have also been included in this proposed update of the Illinois Food Service Sanitation Code.

- 16) Information and questions regarding this (these) adopted amendment(s) shall be directed to:

Susan Meister  
Division of Legal Services  
Illinois Department of Public Health  
535 West Jefferson, Fifth Floor  
Springfield, Illinois 62761

217-782-2043  
(E-mail: [DPH.RULES@illinois.gov](mailto:DPH.RULES@illinois.gov))

The full text of the Adopted Amendment begins on the next page: