DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

1) **Heading of the Part:** Food Service Sanitation Code

2) **Code Citation:** 77 Ill. Adm. Code 750

3) **Section Numbers:**
   - 750.5: Amendment
   - 750.4000: New Section
   - 750.4300: New Section

4) **Statutory Authority:** Food Handling Regulation Enforcement Act [410 ILCS 625].

5) **A Complete Description of the Subjects and Issues Involved:**
   This rulemaking will establish the requirements and a certificate issuance process for Food Product Sampling Handlers for farmers’ markets.

   The economic effect of this proposed rulemaking is unknown. Therefore, the Department requests any information that would assist in calculating this effect.

   The Department anticipates adoption of this rulemaking approximately six to nine months after publication of the Notice in the *Illinois Register*.

6) **Published studies or reports, and sources of underlying data, used to compose this rulemaking:** None

7) **Will this rulemaking replace any emergency rulemaking currently in effect?** No

8) **Does this rulemaking contain an automatic repeal date?** No

9) **Does this rulemaking contain incorporations by reference?** Yes

10) **Are there any other proposed rulemakings pending on this Part?** No

11) **Statement of Statewide Policy Objectives:** This rulemaking does not create or expand any State mandates on units of local government.

12) **Time, Place and Manner in which interested persons may comment on this proposed rulemaking:**
DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

Written or e-mail comments may be submitted within 45 days after this issue of the Illinois Register to:

Elizabeth Paton
Division of Legal Services
Illinois Department of Public Health
535 W. Jefferson St., 5th floor
Springfield, Illinois 62761

217/782-2043
e-mail: dph.rules@illinois.gov

13) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities and not for profit corporations affected: farmers wishing to offer samples of products they are selling at farmers’ markets

B) Reporting, bookkeeping or other procedures required for compliance: None

C) Types of professional skills necessary for compliance: None

14) Regulatory Agenda on which this rulemaking was summarized: July 2014

The full text of the Proposed Amendments begins on the next page:
DEPARTMENT OF PUBLIC HEALTH
NOTICE OF PROPOSED AMENDMENTS
TITLE 77: PUBLIC HEALTH
CHAPTER I: DEPARTMENT OF PUBLIC HEALTH
SUBCHAPTER m: FOOD, DRUGS AND COSMETICS
PART 750
FOOD SERVICE SANITATION CODE

SUBPART A: GENERAL PROVISIONS

Section
750.5 Incorporated and Referenced Materials
750.10 Definitions
750.20 Inspections and Inspection Report

SUBPART B: FOOD SUPPLIES

Section
750.100 General
750.110 Special Requirements
750.120 General – Food Protection
750.130 General – Food Storage
750.140 Refrigerated Storage
750.150 Hot Storage
750.151 Ready-to-Eat Potentially Hazardous Food, Date Marking
750.152 Ready-to-Eat Potentially Hazardous Food, Disposition
750.153 Time as a Public Health Control
750.155 Damaged Food Containers
750.160 General – Food Preparation
750.170 Raw Fruits and Raw Vegetables
750.180 Cooking Potentially Hazardous Foods
750.185 Minimum Food Temperature and Holding Time Required Under Section 750.180(a)(2) for Cooking All Parts of Pork and Game Animals, Comminuted Fish and Meats, and Injected Meats
750.186 Oven Parameters Required for Destruction of Pathogens on the Surface of Roasts of Beef and Corned Beef
750.187 Minimum Holding Times Required at Specified Temperatures for Cooking All Parts of Roasts of Beef and Corned Beef
750.188 Plant Food Cooking for Hot Holding
750.189 Microwave Cooking
750.190 Dry Milk and Dry Milk Products
DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

750.200 Liquid, Frozen, Dry Eggs and Egg Products
750.208 Preparation for Immediate Service
750.210 Reheating for Hot Holding
750.220 Nondairy Products
750.230 Product Thermometers
750.240 ThawingPotentially HazardousFoods
750.250 Food Display and Service of Potentially Hazardous Food
750.260 Display Equipment
750.270 Reuse of Tableware
750.280 Dispensing Utensils
750.290 Ice Dispensing
750.300 CondimentDispensing
750.310 Milk and CreamDispensing
750.320 Re-Service
750.325 Special Requirements for Highly Susceptible Populations
750.330 General – Food Transportation
750.340 Public Health Protection
750.350 Preventing Health Hazards, Provision for Conditions Not Addressed
750.360 Variances
750.370 Justification for and Documentation of Proposed Variance

SUBPART C: PERSONNEL

Section
750.500 General – Employee Health
750.510 General – PersonalCleanliness
750.512 When to Wash Hands
750.514 Where to Wash Hands
750.516 HandAntiseptics
750.520 General – Clothing
750.530 General – Employee Practices
750.540 Management Sanitation Training and Certification
750.550 Management Sanitation Certification Examination (Repealed)
750.551 Certification and Recertification Issuance
750.555 Change of Name or Address
750.560 Certificate Revocation or Suspension
750.570 Food Handler Training

SUBPART D: EQUIPMENT AND UTENSILS
### NOTICE OF PROPOSED AMENDMENTS

#### Section 750.600 General – Materials
750.610 Solder
750.620 Wood
750.630 Plastics
750.640 Mollusk and Crustacea Shells
750.650 General – Design and Fabrication
750.660 Accessibility
750.670 In-Place Cleaning
750.680 Thermometers
750.690 Non-Food-Contact Surfaces
750.700 Ventilation Hoods
750.710 General – Equipment Installation and Location
750.720 Table-Mounted Equipment
750.730 Portable Equipment
750.740 Floor-Mounted Equipment
750.750 Aisles and Working Spaces

#### SUBPART E: CLEANING, SANITIZING, AND STORAGE OF EQUIPMENT AND UTENSILS

<table>
<thead>
<tr>
<th>Section</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>750.800</td>
<td>Cleaning Frequency</td>
</tr>
<tr>
<td>750.810</td>
<td>Wiping Cloths</td>
</tr>
<tr>
<td>750.820</td>
<td>Manual Cleaning and Sanitizing</td>
</tr>
<tr>
<td>750.830</td>
<td>Mechanical Cleaning and Sanitizing</td>
</tr>
<tr>
<td>750.840</td>
<td>Drying</td>
</tr>
<tr>
<td>750.850</td>
<td>Equipment, Utensil, and Tableware Handling</td>
</tr>
<tr>
<td>750.860</td>
<td>Equipment, Utensil, and Tableware Storage</td>
</tr>
<tr>
<td>750.870</td>
<td>Pre-Set Tableware</td>
</tr>
<tr>
<td>750.880</td>
<td>Single-Service Articles</td>
</tr>
<tr>
<td>750.890</td>
<td>Prohibited Storage Area</td>
</tr>
</tbody>
</table>

#### SUBPART F: SANITARY FACILITIES AND CONTROLS

<table>
<thead>
<tr>
<th>Section</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>750.1000</td>
<td>General – Water Supply</td>
</tr>
<tr>
<td>750.1010</td>
<td>Transportation</td>
</tr>
<tr>
<td>750.1020</td>
<td>Bottled Water</td>
</tr>
<tr>
<td>750.1030</td>
<td>Water Under Pressure</td>
</tr>
</tbody>
</table>
DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

750.1040  Steam
750.1050  General – Sewage Disposal
750.1060  General – Plumbing
750.1070  Nonpotable System
750.1080  Backflow
750.1090  Grease Traps
750.1100  Drains
750.1110  General – Toilet Facilities
750.1120  General – Lavatory Facilities
750.1130  Containers – Garbage and Refuse
750.1140  Garbage and Refuse Storage
750.1150  Disposal of Garbage and Rubbish
750.1160  General – Insect and Rodent Control
750.1170  Protection of Openings Against Entrance of Insects and Rodents

SUBPART G: CONSTRUCTION AND MAINTENANCE OF PHYSICAL FACILITIES

Section
750.1200  General – Floors
750.1210  General – Walls and Ceilings
750.1220  General – Cleaning Physical Facilities
750.1230  General – Lighting
750.1240  Protective Light Shielding
750.1250  General – Ventilation
750.1260  Special Ventilation
750.1270  Dressing Areas
750.1280  Lockers
750.1290  Poisonous or Toxic Materials Permitted
750.1300  Labeling of Poisonous or Toxic Materials
750.1310  Storage of Poisonous or Toxic Materials
750.1320  Use of Poisonous or Toxic Materials
750.1330  Personal Medications
750.1340  First-Aid Supplies
750.1350  General – Premises
750.1360  Living Areas
750.1370  Laundry Facilities
750.1380  Linens and Clothes Storage
750.1390  Cleaning Equipment Storage
750.1400  Animals
## DEPARTMENT OF PUBLIC HEALTH

### NOTICE OF PROPOSED AMENDMENTS

**SUBPART H: MOBILE FOOD SERVICE**

<table>
<thead>
<tr>
<th>Section</th>
<th>Title</th>
</tr>
</thead>
<tbody>
<tr>
<td>750.1500</td>
<td>General – Mobile Food Units</td>
</tr>
<tr>
<td>750.1510</td>
<td>Restricted Operation</td>
</tr>
<tr>
<td>750.1520</td>
<td>Single-Service Articles</td>
</tr>
<tr>
<td>750.1530</td>
<td>Water Systems</td>
</tr>
<tr>
<td>750.1540</td>
<td>Waste Retention</td>
</tr>
<tr>
<td>750.1550</td>
<td>Base of Operations</td>
</tr>
<tr>
<td>750.1560</td>
<td>Servicing Area</td>
</tr>
<tr>
<td>750.1570</td>
<td>Servicing Operations</td>
</tr>
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**SUBPART I: TEMPORARY FOOD SERVICE**

<table>
<thead>
<tr>
<th>Section</th>
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<tbody>
<tr>
<td>750.1600</td>
<td>General – Temporary Food Service Establishments</td>
</tr>
<tr>
<td>750.1610</td>
<td>Restricted Operations</td>
</tr>
<tr>
<td>750.1620</td>
<td>Ice</td>
</tr>
<tr>
<td>750.1630</td>
<td>Equipment</td>
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<tr>
<td>750.1640</td>
<td>Water</td>
</tr>
<tr>
<td>750.1650</td>
<td>Wet Storage</td>
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<tr>
<td>750.1660</td>
<td>Waste Disposal</td>
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<tr>
<td>750.1670</td>
<td>Handwashing</td>
</tr>
<tr>
<td>750.1680</td>
<td>Floors</td>
</tr>
<tr>
<td>750.1690</td>
<td>Walls and Ceilings of Food Preparation Areas</td>
</tr>
<tr>
<td>750.1700</td>
<td>Single-Service Articles</td>
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**SUBPART J: FOOD SERVICE SANITATION MANAGER CERTIFICATION**

<table>
<thead>
<tr>
<th>Section</th>
<th>Title</th>
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<tbody>
<tr>
<td>750.1800</td>
<td>General</td>
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<tr>
<td>750.1810</td>
<td>Instructor Approval</td>
</tr>
<tr>
<td>750.1812</td>
<td>Instructor Renewal</td>
</tr>
<tr>
<td>750.1814</td>
<td>Proctor Approval</td>
</tr>
<tr>
<td>750.1815</td>
<td>Instructor and Proctor Compliance and Enforcement Process</td>
</tr>
<tr>
<td>750.1820</td>
<td>Course Content</td>
</tr>
<tr>
<td>750.1830</td>
<td>Course Approval</td>
</tr>
<tr>
<td>750.1831</td>
<td>Alternative Training Methods</td>
</tr>
<tr>
<td>750.1835</td>
<td>Make Up Work (Repealed)</td>
</tr>
</tbody>
</table>
NOTICE OF PROPOSED AMENDMENTS

750.1836 Home Study (Repealed)
750.1837 Course Waiver (Repealed)
750.1838 Course Denial
750.1840 Reciprocity
750.1850 Certification Examination
750.1855 Testing Criteria (Repealed)
750.1860 Administration of Examination
750.1861 Class Enrollment Form (Repealed)
750.1862 Administration of Examination (Repealed)
750.1865 Monitors (Repealed)
750.1868 Cheating (Repealed)
750.1870 Re-test Class (Repealed)
750.1876 Dictionary (Repealed)
750.1880 Retake Examination (Repealed)
750.1890 Certificates (Repealed)
750.1895 Change of Address (Repealed)

SUBPART K: REDUCED OXYGEN PACKAGING

Section
750.2000 General
750.2010 Acceptable Products
750.2020 Employee Training
750.2030 Refrigeration Requirements
750.2031 Labeling – Refrigeration Statements
750.2032 Labeling – "Use By" Dates
750.2040 Safety Barriers
750.2041 Fish and Fishery Products
750.2042 Safety Barrier Verification
750.2050 Hazard Analysis Critical Control Point (HACCP) Program
750.2060 Precautions Against Contamination
750.2070 Disposition of Expired Product
750.2080 Dedicated Area/Restricted Access

SUBPART L: MEAT/POULTRY PROCESSING AND LABELING

Section
750.3000 Exceptions
750.3100 Meat and Poultry Labeling
750.3200 Smoked Meat, Poultry and Other Food Products
NOTICE OF PROPOSED AMENDMENTS

SUBPART M: FOOD HANDLER TRAINING

Section
750.3400 General Requirements
750.3410 Course Content
750.3420 Course Approval
750.3430 Requirements for Food Handlers

SUBPART N: FARMERS’ MARKETS

Section
750.4000 Definitions
750.4300 Food Product Sampling Handler Certificate for Farmers’ Markets


DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS


Section 750.5 Incorporated and Referenced Materials

a) The following State statutes materials are referenced in this Part:

1) Alternative Health Care Delivery Act [210 ILCS 3]
2) Nursing Home Care Act [210 ILCS 45]
3) Good Samaritan Food Donor Act [745 ILCS 50]
4) Hospital Licensing Act [210 ILCS 85]
5) Federal Food, Drug, and Cosmetic Act (21 USC 301)
6) Illinois Food, Drug and Cosmetic Act [410 ILCS 620]
7) Grade A Pasteurized Milk and Milk Products Act [410 ILCS 635]
8) Meat and Poultry Inspection Act [225 ILCS 650]
9) Sanitary Food Preparation Act [410 ILCS 650]
10) Freedom of Information Act [5 ILCS 140]
11) Food Handling Regulation Enforcement Act (410 ILCS 625)

b) The following State administrative rules are referenced in this Part:

1 44) Control of Communicable Diseases Code (77 Ill. Adm. Code 690)
2 42) Salvage Warehouses and Stores for Foods, Alcoholic Liquors, Drugs, Medical Devices and Cosmetics Code (77 Ill. Adm. Code 725)
DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

4 44) Public Area Sanitary Practice Code (77 Ill. Adm. Code 895)
6 46) Private Sewage Disposal Code (77 Ill. Adm. Code 905)
7 47) Water Well Construction Code (77 Ill. Adm. Code 920)
8 48) Practice and Procedure in Administrative Hearings (77 Ill. Adm. Code 100)
19) Food Service Sanitation Code (77 Ill. Adm. Code 750)
10) Certified Local Health Department Code (77 Ill. Adm. Code 600)

b) The following materials are incorporated in this Part:


A) 9 CFR 1: Animals and Animal Products; Animal Welfare, Definition of Terms;

B) 9 CFR 301: Animals and Animal Products; Mandatory Meat Inspection, Definitions;
NOTICE OF PROPOSED AMENDMENTS

C) 9 CFR 318: Animals and Animal Products; Mandatory Meat Inspection, Entry into official establishments; reinspection and preparation of products;

D) 9 CFR 381: Animals and Animal Products; Mandatory Poultry Products Inspection, Poultry products inspection regulations;

E) 21 CFR 110: Current Good Manufacturing Practice in Manufacturing, Packaging, or Holding Human Food;

F) 21 CFR 133: Cheeses and Related Cheese Products;

G) 21 CFR 131: Milk and Cream;

H) 21 CFR 114: Acidified Foods;

I) 9 CFR 317: Labeling, Marking Devices, and Containers;

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; and

N) 21 CFR 186 − Indirect Food Substances Affirmed as Generally Recognized as Safe (for use in contact with food).

DEPARTMENT OF PUBLIC HEALTH
NOTICE OF PROPOSED AMENDMENTS

c) All incorporations by reference of federal regulations and the standards of nationally recognized organizations refer to the regulations and standards on the date specified and do not include any amendments or editions subsequent to the date specified.

(Source: Amended at 39 Ill. Reg. _______, effective ____________)

SUBPART N: FARMERS’ MARKETS

Section 750.4000 Definitions

"Act" means Food Handling Regulation Enforcement Act.

“Certified Local Health Department” means a local government agency that administers and assures health-related programs and services within its jurisdiction and is certified pursuant to Section 600.210 of the Certified Local Health Departments Code.

“Farmers’ market” means a common facility or area where the primary purpose is for two or more farmers to gather to sell a variety of fresh fruits and vegetables and other locally produced farm and food products directly to consumers. (Section 3.3(b) of the Act)

"Food product sampling" means food product samples distributed free of charge for promotional or educational purposes only. (Section 3.4(a) of the Act)

"Food product sampling handler" means any person who is engaged in performing tasks such as un-packaging, cutting, slicing, preparing or distributing food product samples to consumers at a farmers’ market.

"Food sample" means an individual portion of food given to a consumer without charge to allow consumers to experience a small portion of the product.

"Local health department" means a local governmental agency that administers and assures health-related programs and services within its jurisdiction.

“Point of sale” means the physical location where food products are sold to customers.
ILLINOIS REGISTER

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

(Source: Added at 39 Ill. Reg. _____, effective ____________)

Section 750.4300 Food Product Sampling Handler Certificate for Farmers’ Markets

a) Food Product Sampling Handler Certificate Application Requirements

1) Individuals possessing a valid Illinois Food Service Sanitation Manager Certification (FSSMC) shall submit the following:

A) Department application; and

B) Payment of the $10 application fee.

2) Individuals who do not possess a valid FSSMC shall submit the following:

A) Evidence of successful completion of a food handler training course as outlined in Subpart M.

B) Evidence of successful completion of Department farmers’ market food sampling handler training;

C) Department application; and

D) Payment of the $40 application fee.

b) Certificate

1) Food Product Sampling Handler Certificates issued to a FSSMC will be valid 36 months from the issue date.

2) Food Product Sampling Handler Certificates issued to a non-FSSMC will be valid for 36 months from the date of the successful completion of the Department farmers’ market food sampling handler training.

c) Replacement certificates issued under this Subpart will:

1) Be issued after the Department’s receipt of a $10 replacement fee; and

2) Have the same expiration date as the original Food Product Sampling Handler Certificate.
d) All persons possessing a valid Food Product Sampling Handler Certificate shall display the certificate at the point of sale.

e) Suspension or revocation of a Food Product Sampling Handler Certificate

1) Any violation of this Subpart by the food product sampling handler that creates a potential health hazard shall result in suspension of the certificate by the Department or a certified local health department unless the violation can be corrected immediately during the inspection based on the inspector’s professional judgment. The following procedures shall be followed for the suspension of a certificate:

A) The certified local health department shall notify the certificate holder in writing at the time of suspension, stating the reason for the suspension and corrective measures needed to reinstate the certificate.

B) The certificate holder shall apply, in writing, to the certified local health department responsible for suspending the certificate to request reinstatement of the certificate. If the certified local health department considers the violations to be corrected, the certificate shall be reinstated.

C) The certified local health department shall within five days after the suspension and certificate reinstatement notify the Department in writing of the suspension and certificate reinstatement. The certified local health department shall forward to the Department a copy of the inspection including the reason for suspension and resolution of the suspension, if any.

D) If the issue is not resolved, the holder of the certificate may apply for reinstatement of the certificate, in writing, to the Department to request a conference to determine whether the holder is in compliance with this Subpart.

2) If the certificate holder receives two or more suspensions in a 12-month period, the Department will revoke the certificate. The Department will notify the certificate holder of the Department's intent to revoke the certificate and will provide an opportunity for a hearing in accordance
DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

with Practice and Procedure in Administrative Hearings. If the certificate holder does not file a request for a hearing with the Department within 10 days following service of the notice, the certificate will be revoked.

f) Exemption

A vendor who possesses a food service establishment permit from the local health department is exempted from the training and permit requirements of this Subpart. A food service establishment permit is valid only in the jurisdiction of the issuing local health department.

(Source: Added at 39 Ill. Reg. ______, effective ____________ )