September 12, 2016

Q: I see that according to the July 15 Illinois Register, all but five subsections of the Illinois Food Service Sanitation Code were repealed. (That means all of 77 Ill. Adm. Code 750.120 through 750.3300, except for sections 5, 10, 20, 110, and 500.) Also, the first seven chapters of the U.S. FDA Food Code 2013 were adopted and incorporated (except for certain terms) as a replacement, effective June 29, 2016. However, while all these changes show up in the online Administrative Code’s Section 750, none show up in the draft amended version of 77 Ill. Adm. Code 300.340, on “Incorporated and Referenced Materials,” which is on the agenda of the Long-Term Care Facilities Advisory Board. Should the list of incorporated materials now include the FDA Food Code 2013? And does there need to be an amendment of 77 Ill. Adm. Code 300.2100, “Food Handling Sanitation,” which currently only says that “Every facility shall comply with the Department’s rules entitled ‘Food Service Sanitation’ (77 Ill. Adm. Code 750)”? Or is it simply to be inferred that nursing facilities must comply with the FDA Food Code 2013’s first seven chapters because they were incorporated in the (stripped-down) Illinois Food Service Sanitation Code that is required in Part 300.2100?

A: On 07/29/16, the Department’s proposed amendments to the Illinois Food Service Sanitation Code [77 Ill Adm Code 750] to incorporate the 2013 FDA Model Food Code were officially adopted. In the newly adopted version of the code, many sections were repealed to eliminate duplication and inconsistencies with the FDA Model Food Code. Since this was an incorporation by reference, the actual text from the FDA Model Food Code does not appear in the Illinois Food Code; however, a listing of Sections of the FDA Model Food Code that were incorporated by reference into the Illinois Food Code can be found in Section 750.5(c).

The Illinois Food Service Sanitation Code is a referenced material in Section 300.340(c)(3)(C)(iii) of the Skilled Nursing and Intermediate Care Facilities Code and Section 300.2100 states “Every facility shall comply with the Department’s rules entitled “Food Service Sanitation” (77 Ill. Adm. Code 750)”. The Illinois Food Service Sanitation Code incorporates all parts of the 2013 FDA Model Food Code listed in Section 750.5(c); therefore the facilities regulated by the 300 Code must comply with those sections of the FDA Model Food Code listed in Section 750.5(c).