

Document: Proposed Rule, **Register Page Number:** 26 IR 1245

Source: January 1, 2003, Indiana Register, Volume 26, Number 4

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**TITLE 410 INDIANA STATE DEPARTMENT OF
HEALTH**

Proposed Rule
LSA Document #02-266

DIGEST

Adds 410 IAC 7-22 to establish standards for the certification of food handlers for food establishments and the imposition of penalties for violations. Effective 30 days after filing with the secretary of state.

410 IAC 7-22

SECTION 1. 410 IAC 7-22 IS ADDED TO READ AS FOLLOWS:

Rule 22. Certification of Food Handlers

410 IAC 7-22-1 Applicability

Authority: IC 16-42-5.2-13

Affected: IC 16-42-5.2

Sec. 1. The definitions in this rule apply throughout this rule. *(Indiana State Department of Health; 410 IAC 7-22-1)*

410 IAC 7-22-2 “Accredited” defined

Authority: IC 16-42-5.2-13

Affected: IC 16-42-5.2

Sec. 2. “Accredited” means that an accrediting organization has verified a food safety certification examination meets the standards established by the Conference for Food Protection. The food safety certification examination shall be reviewed by an independent accrediting organization to verify compliance with standards established by the Conference for Food Protection. *(Indiana State Department of Health; 410 IAC 7-22-2)*

410 IAC 7-22-3 “Accredited certification examination” defined

Authority: IC 16-42-5.2-13

Affected: IC 16-42-5.2

Sec. 3. “Accredited certification examination” means a food protection certification examination that meets the criteria established by the Conference for Food Protection, and has met the Conference for Food Protection standards, such as the American National Standards Institute standards for such programs. *(Indiana State Department of Health; 410 IAC 7-22-3)*

410 IAC 7-22-4 “Accredited testing service” defined

Authority: IC 16-42-5.2-13

Affected: IC 16-42-5.2

Sec. 4. “Accredited testing service” means a testing service that meets the standards established by the Conference for Food Protection and has met the Conference for Food Protection and the American National Standards Institute standards for such examinations. *(Indiana State Department of Health; 410 IAC 7-22-4)*

410 IAC 7-22-5 “Accrediting organization” defined

Authority: IC 16-42-5.2-13
Affected: IC 16-42-5.2

Sec. 5. “Accrediting organization” means an independent organization, such as the American National Standards Institute, that determines whether a food protection certification examination meets the standards established by the Conference for Food Protection. (Indiana State Department of Health; 410 IAC 7-22-5)

410 IAC 7-22-6 “Certification document” defined

Authority: IC 16-42-5.2-13
Affected: IC 16-42-5.2

Sec. 6. “Certification document” means a certificate, letter, or other document verifying the individual has passed an accredited examination given by an accredited testing service. (Indiana State Department of Health; 410 IAC 7-22-6)

410 IAC 7-22-7 “Certified food handler” defined

Authority: IC 16-42-5.2-13
Affected: IC 16-42-5.2

Sec. 7. “Certified food handler” means a food handler who holds a certificate recognized by the Conference for Food Protection or an equivalent nationally recognized certification program as determined by the department. (Indiana State Department of Health; 410 IAC 7-22-7)

410 IAC 7-22-8 “Department” defined

Authority: IC 16-42-5.2-13
Affected: IC 16-42-5.2

Sec. 8. “Department” means the Indiana state department of health. (Indiana State Department of Health; 410 IAC 7-22-8)

410 IAC 7-22-9 “Food establishment” defined

Authority: IC 16-42-5.2-13
Affected: IC 16-42-5.2

Sec. 9. “Food establishment” means any building, room, basement, vehicle of transportation, cellar, or open or enclosed area occupied or used for handling food. (Indiana State Department of Health; 410 IAC 7-22-9)

410 IAC 7-22-10 “Food handler” defined

Authority: IC 16-42-5.2-13
Affected: IC 16-42-5.2

Sec. 10. “Food handler” means an individual who is:

- (1) an owner, an operator, a manager, or an employee of a food establishment; and**
- (2) responsible for or oversees the storage, preparation, display, or serving of food to the public.**

(Indiana State Department of Health; 410 IAC 7-22-10)

410 IAC 7-22-11 “Person-in-charge” defined

Authority: IC 16-42-5.2-13
Affected: IC 16-42-5.2

Sec. 11. “Person-in-charge” means an individual present at a food establishment who is responsible for the food operation at the time of inspection. (Indiana State Department of Health; 410 IAC 7-22-11)

410 IAC 7-22-12 “Prepackaged food” defined

Authority: IC 16-42-5.2-13
Affected: IC 16-42-5.2

Sec. 12. “Prepackaged food” means prior to service and/or receipt of a food, the food is bottled, canned, cartoned, securely wrapped, whether packaged in a food establishment or a food processing plant. The term does not include a wrapper, carry-out box, or other nondurable container used to containerize food with the purpose of facilitating food protection during service and receipt of the food by the consumer. *(Indiana State Department of Health; 410 IAC 7-22-12)*

410 IAC 7-22-13 “Recertification” defined
Authority: IC 16-42-5.2-13
Affected: IC 16-42-5.2

Sec. 13. “Recertification” means requiring a precertified individual to pass an accredited certification examination at least five (5) years from the original certificate issue date, or complying with the accredited testing service’s written policy for recertification. *(Indiana State Department of Health; 410 IAC 7-22-13)*

410 IAC 7-22-14 “Regulatory authority” defined
Authority: IC 16-42-5.2-13
Affected: IC 16-42-5.2

Sec. 14. “Regulatory authority” means the local or state body or authorized representative having jurisdiction over a food establishment. *(Indiana State Department of Health; 410 IAC 7-22-14)*

410 IAC 7-22-15 Certified food handler requirements
Authority: IC 16-42-5.2-13
Affected: IC 12-15; IC 16-21; IC 16-28; IC 16-42-5.2; IC 23-2-4

Sec. 15. (a) A corporation or local health department may not impose any registration, certification, or licensing requirements on food handling or food handlers.

(b) After December 31, 2004, at least one (1) food handler at a food establishment must be a certified food handler. A food handler’s certification must be recognized by the Conference for Food Protection or an equivalent nationally recognized certification examination as determined by the department.

(c) A food establishment shall have at least one (1) certified food handler responsible for all periods of the food establishment’s operation. However, a certified food handler need not be present at the food establishment during all hours of operation. It shall be the responsibility of the certified food handler to provide the certificate, letter, or document for verification of passing the examination.

(d) A food establishment that begins operation or changes ownership shall comply with subsection (b) not later than six (6) months after beginning operation or changing ownership.

(e) If a food establishment does not have a certified food handler because the certified food handler terminates employment with the food establishment, the owner or operator of the food establishment shall comply with subsection (b) not later than three (3) months after the termination date of the previous certified food handler.

(f) If more than one (1) food establishment operated by the same individual is located on the same property or on contiguous properties, only one (1) certified food handler is required for the food establishments.

(g) The certified food handler requirement does not apply to a food establishment when the food establishment’s food handling activities are limited solely to one (1) or more of the following:

- (1)** Heating or serving precooked hot dog or sausage products, popcorn, nachos, pretzels, or frozen pizza.
- (2)** Preparing or serving a continental breakfast, such as rolls, coffee, juice, milk, and cold cereal.

- (3) Preparing or serving nonalcoholic or alcoholic beverages or ice.
- (4) Grinding coffee beans.
- (5) Packaged foods that are not potentially hazardous foods in accordance with the rules adopted by the executive board.
- (6) Heating when it is the only step for a bakery product.
- (7) Providing prepackaged food in its original package.

(h) The certified food handler requirement does not apply to the following institutions:

- (1) Hospitals licensed under IC 16-21.
- (2) Health facilities licensed under IC 16-28.
- (3) Housing with services establishments that are required to file disclosure statements under IC 12-15.
- (4) Continuing care retirement communities required to file disclosure statements under IC 23-2-4.

(Indiana State Department of Health; 410 IAC 7-22-15)

410 IAC 7-22-16 Assignment of supervision and responsibility

Authority: IC 16-42-5.2-13
Affected: IC 16-42-5.2

Sec. 16. (a) The food establishment shall have a person-in-charge present at the food establishment during all hours of operation.

(b) From one (1) year beyond the effective date of this rule, any food establishment not exempted from the law, shall maintain at least one (1) copy of this rule on premises at all times. Immediate electronic access to this rule shall be considered acceptable for meeting this requirement. *(Indiana State Department of Health; 410 IAC 7-22-16)*

410 IAC 7-22-17 Qualifications for certification

Authority: IC 16-42-5.2-13
Affected: IC 16-42-5.2

Sec. 17. In order to become a certified food handler, an individual must comply with the following:

- (1) Successfully pass an accredited examination administered by an accredited testing service.
- (2) Provide name, certification document (copies thereof), and photo identification card at the food establishment for the certified food handler. The certification document shall be made available by the person-in-charge for inspection by the regulatory authority at all times.
- (3) The certification document shall be removed from the food establishment when the certified food handler terminates employment with the food establishment.
- (4) No person shall be designated as a certified food handler, or in any way represent himself or herself as a certified food handler unless they hold a certification document.

(Indiana State Department of Health; 410 IAC 7-22-17)

410 IAC 7-22-18 Penalties

Authority: IC 16-42-5.2-13
Affected: IC 16-42-5.2

Sec. 18. Unless adjusted by an administrative order, the following schedule of monetary penalties shall be used if penalties are to be assessed:

Section 15(a), 15(b), 15(c), 15(d), 15(e), and 15(f) of this rule	\$0–100 per day per violation
Section 16(a) of this rule	\$0–100 per day per violation
Section 16(b) of this rule	\$0–50 per day per violation
Section 17(a)(1), 17(a)(2), 17(a)(3) and 17(a)(4) of this rule	\$0–100 per day per violation

(Indiana State Department of Health; 410 IAC 7-22-18)

Notice of Public Hearing

Under IC 4-22-2-24, notice is hereby given that on January 27, 2003 at 2:00 p.m., at the Indiana State Department of Health, 2 North Meridian Street, Rice Auditorium, Indianapolis, Indiana the Indiana State Department of Health will hold a public hearing on a proposed new rule to establish standards for the certification of food handlers for food establishments and the imposition of penalties for violations. Copies of these rules are now on file at the Indiana State Department of Health, Health Care Regulatory Services Commission, 2 North Meridian Street and Legislative Services Agency, One North Capitol, Suite 325, Indianapolis, Indiana and are open for public inspection.

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State Health Commissioner
Indiana State Department of Health