

**CERTIFICATION OF FOOD
HANDLER REQUIREMENTS**

TITLE 410 IAC 7-22

**INDIANA STATE DEPARTMENT
OF HEALTH**

Effective June 19, 2003

Indiana State Department of Health
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Preface

Many state and local regulatory food protection agencies throughout the nation have implemented requirements, or are in the process of implementing requirements, that mandate some form of certification for food handlers. The requirements for food handler certification in state and county health jurisdictions are quite diverse, and the requirements are varied. The certification requirements have been somewhat confusing and difficult for the food industry to address effectively. For this reason, the Conference for Food Protection in conjunction with the American National Standards Institute, have developed a national standard for measurement of food safety knowledge, that would have “universal acceptance” by state and local food protection agencies and the food industry in general.

The Indiana legislature adopted IC 16-42-5.2, that provides for mandatory certification of at least one person per food establishment, who oversees food safety operations within the establishment. The proposal for food handler certification was introduced to the legislature on behalf of representatives from Indiana’s food industry. The proposal was intended to mandate a standard requirement for food handler certification that would have “universal acceptance” and be recognized by all local and state health department jurisdictions in Indiana. In response to this proposal, Senate Bill 404 was introduced and adopted by the 2001 legislature. The requirement of having a “Certified Food Handler” will become effective January 1, 2005. Standards developed by the Conference for Food Protection, and the American National Standards Institute, have been incorporated into this rule to establish a uniform standard for food handler certification in Indiana.

410 IAC 7-22 has undergone intensive review by a “Food Handler Certification Task Force,” which consists of representatives from the food industry, academia, state and local health departments. The “Food Handler Certification Task Force” was formed to strike a balanced mix of stakeholders addressing the various aspects of food handler certification. The certification requirements established by the legislature and the “Food Handler Certification Task Force,” focuses on the specific areas of food safety knowledge, that are “universally accepted” by regulators and the food industry, and are essential components in the prevention of foodborne disease.

TITLE 410 INDIANA STATE DEPARTMENT OF HEALTH

**LSA Document #02-266
Proposed Rule**

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 “Accreditation” defined

Authority: IC 16-42-5.2-13

Affected: IC 16-42-5.2

Sec. 2. “Accreditation” 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 “Accrediting organization” defined

Authority: IC 16-42-5.2-13

Affected: IC 16-42-5.2

Sec. 4. “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 7-22-4)*

410 IAC 7-22-5 “Accredited testing service” defined

Authority: IC 16-42-5.2-13

Affected: IC 16-42-5.2

Sec. 5. “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 7-22-5)*

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 an owner, an operator, a manager, or an employee of a food establishment; and is 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 “Pre-packaged food” defined

Authority: IC 16-42-5.2-13

Affected: IC 16-42-5.2

Sec. 12. “Pre-packaged 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. Pre-packaged does not include a wrapper, carry-out box or other non-durable 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 “Re-certification” defined

Authority: IC 16-42-5.2-13

Affected: IC 16-42-5.2

Sec. 13. “Re-certification” means requiring a pre-certified individual to pass an accredited certification examination within five (5) years from the date of issue of their most recent certificate issue date, or complying with the accredited testing service’s written policy for re-certification. *(Indiana State Department of Health; 410 IAC 7-22-12)*

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 16-42-5.2

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 section 15(b) of this rule 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 section 15(b) of this rule 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; or
- (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 12-10-15; or
- (4) Continuing care retirement communities required to file disclosure statements under IC 23-2-4.
- (5) Community mental health centers (as defined in IC 12-7-2-38) ***
- (6) Private mental health institutions licensed under IC 12-25. ***

(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. (a) 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 Recertification

Authority: IC 16-42-5.2-13

Affected: IC 16-42-5.2

Sec. 18. (a) A person designated as the certified food handler for a food establishment must not allow their certification to expire; and

(b) the certified food handler shall become recertified as defined in section 13.

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

410 IAC 7-22-19 Penalties

Authority: IC 16-42-5.2-13

Affected: IC 16-42-5.2

Sec. 19. Unless adjusted by an administrative order, the following schedule of monetary penalties shall be used if penalties are to be assessed:

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

(Indiana State Department of Health; 410 IAC 7-22-19)

*** These sections added for information, since they were later added to IC 16-42-5.2-3 by the Indiana Legislature after this rule was adopted. These 2 sections are not legally part of this rule, but these facilities are exempt from the statute and this rule.**

