

# **CERTIFICATION OF FOOD HANDLER REQUIREMENTS**

## **TITLE 410 IAC 7-22**

**Effective December 17, 2006**

# **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” became 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. Further exemptions were added by the Indiana Legislature over the last 4 years and as a result have been added to this rule.

If further changes to the statute are made we will attempt to update this rule in an expedient manner. However, if changes are made to the statute after the effective date of this rule then always follow the statutory provision rather than a conflicting section of this rule.

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# 410 IAC 7-22

## Certification of Food Handlers

### Definitions

**Section 1** The definitions in this rule apply throughout this rule.

**Section 2** “Accreditation” defined

“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.

**Section 3** “Accredited certification examination” defined

“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.

**Section 4** “Accrediting organization” defined

“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.

**Section 5** “Accredited testing service” defined

“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.

**Section 6** “Certification document” defined

“Certification document” means a certificate, letter, or other document verifying the individual has passed an accredited examination given by an accredited testing service.

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**Section 7** “Certified food handler” defined

“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.

**Section 8** “Department” defined

“Department” means the Indiana state department of health.

**Section 9** “Food establishment” defined

“Food establishment” means any building, room, basement, vehicle of transportation, cellar, or open or enclosed area occupied or used for handling food.

**Section 10** “Food handler” defined

“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.

**Section 11** “Person-in-charge” defined

“Person-in-charge” means an individual present at a food establishment who is responsible for the food operation at the time of inspection.

**Section 12** “Pre-packaged food” defined

“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.

**Section 13** “Re-certification” defined

“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.

**Section 14** “Regulatory authority” defined

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“Regulatory authority” means the local or state body, or authorized representative having jurisdiction over a food establishment.

## **Certified Food Handler Requirements**

### **Section 15 “Certified food handler requirements”**

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) Except as provided in subsection (h), 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 foods.

(2) Preparing or serving a continental breakfast such as rolls, coffee, juice, milk, and cold cereal.

(3) Preparing or serving nonalcoholic or alcoholic beverages that are not potentially hazardous beverages or ice.

(4) Preparing or serving packaged or unpackaged foods that are not potentially hazardous foods, including elephant ears, funnel cakes, cotton candy, confectionaries, baked goods, popcorn, and chips and grinding coffee beans.

(5) Providing prepackaged food in its original package.

(h) A food establishment that has more than ten thousand (10,000) square feet in total retail sales space at the food establishment location must comply with this

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chapter. This does not apply to a pharmacy that is a food establishment that provides only prepackaged food products for sale.

(i) 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.
- (7) An area agency on aging designated under IC 12-10-1 that provides food under a nutrition service program. However, the premise where the food is prepared is not exempt from the requirements under this chapter.
- (8) A food pantry that:
  - (A) is operated or affiliated with a nonprofit organization that is exempt from federal income taxation under Section 501(c)(3) of the Internal Revenue Code; and
  - (B) distributes food, which may include food from the United States Department of Agriculture, to needy persons.

(j) A food bank or other facility that distributes donated food to other organizations is not exempt from the requirements of this rule.

(k) An organization that is exempt from the state gross retail tax under IC 6-2.5-5-21(b)(1)(B), IC 6-2.5-5-21(b)(1)(C), or IC 6-2.5-5-21(b)(1)(D) is exempt from complying with the requirements of this rule.

(l) This section does not prohibit an exempted organization from waiving the exemption and using a certified food handler.

## **Section 16** “Assignment of supervision and responsibility”

(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.

## **Section 17** “Qualifications for certification”

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- (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.

**Section 18 “Recertification”**

- (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.

**Section 19 “Penalties “**

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