

Food Handler Certification Requirements

Frequently Asked Questions Regarding 410 IAC 7-22 and IC 16-42-5.2

The following questions and answers are based on current knowledge and are subject to change upon notification from the Indiana State Department of Health.

TYPES OF INSTITUTIONS THAT ARE EXEMPT

Area agency on aging (designated under IC 12-10-1) nutrition serving sites
Assisted living facilities
Bed and breakfast establishments
Community mental health facilities (private and public)
Hospitals (licensed under IC 16-21)
Health facilities (nursing homes and continuing care facilities licensed under IC 16-28)
Tax exempt organizations
Food pantries (affiliated with a federal tax exempt organization)

Q #1: Which exams are allowable under the food handler certification rule, 410 IAC 7-22 (Rule)?

A: *The Rule is examination based and does not include a training requirement. The Conference for Food Protection (CFP) has contracted with the American National Standards Institute (ANSI) to review and approve programs and examinations. The Rule requires the passage of an examination approved by ANSI. At this time, there are three (3) organizations that have applied for and received certification using the new ANSI process and they are as follows: (other organizations offer these exams on behalf of these organizations, so visit <http://www.in.gov/isdh/regsvcs/foodprot/foodhandler/certificationrule.htm> for the most updated list of providers)*

ServSafe®

Indiana Restaurant and Hospitality Association (317) 673-4211 or (800) 678-1957

Food Safety Manager Certification Examination

The National Registry of Food Safety Professionals (800) 446-0257

Certified Professional Food Manager®

Thomson Prometric (formerly Exporior Assessments) (800) 786-3926

Q #2: When does each food establishment have to have a certified food handler in place at their establishment?

A: *As of January 1, 2005 food establishments must have at least one (1) certified food handler in their employment.*

Q #3: Is the Rule being met if the certified food handler is not a manager and/or does not have any oversight capacity for food safety within the establishment?

A: *The Rule states that the definition of a certified food handler is: “an owner, an operator, a manager, or an employee of a food establishment”. But it further states: “and is responsible for or oversees the storage, preparation, display, or serving of food to the public”. Therefore, the certified food handler must meet both criteria and must have some oversight capacity.*

- Q #4: After December 31, 2004, do the requirements for a “person-in-charge” still apply?**
A: *Yes. Establishments are still required to have a person-in-charge on-site during all hours of operation. Keep in mind, the person-in-charge and the certified food handler may be two separate people.*
- Q #5: Does there have to be a certified food handler present at each establishment at all times?**
A: *No. There has to be one (1) certified food handler employed at each establishment. There does, however, have to be a certified food handler who has oversight responsibility for all periods of the food establishment’s operation. There is no minimum number of hours present required of the certified food handler in the law.*
- Q #6: Does the Rule apply to temporary and mobile food establishments?**
A: *Yes, unless exempted by menu or by exempt institutions in IC 16-42-5.2.*
- Q #7: If a temporary food establishment vendor has more than one (1) unit/trailer at the same event, are they required to have a certified food handler for each unit/trailer?**
A: *Due to Section 15(e) of the Rule regarding establishments located on “the same property or on contiguous properties”, only one certified food handler is required at each event regardless of the number of actual units/trailers the vendor operates. However, if they operate in two (2) separate events on different properties on the same day, they must have two (2) separate certified food handlers responsible for the two (2) separate operations*
- Q #8: Does the Rule apply to area agency on aging nutrition serving locations? In other words, if food is prepared at a central commissary and merely opened and served at the “site”, do they have to comply with the Rule?**
A: *The nutrition serving sites are exempt from the certification requirements. Unless the central commissary where the food is prepared for the nutrition sites is tax-exempt, then the central commissaries are not exempt.*
- Q #9: How long does a food establishment have to comply with the Rule having just opened or changed ownership?**
A: *In either circumstance, they have six (6) months to come in to compliance with the Rule.*
- Q #10: Does the certification or certificate need to be posted in a conspicuous location (i.e., next to the local permit)?**
A: *There are no requirements stated in 410 IAC 7-22 or IC 16-4-5.2 with regard to the posting of the certificate or documents of proof. The certificate needs to be available upon request by the regulatory agency.*
- Q #11: If a food establishment’s only product is a non-potentially hazardous food product that they package themselves and transport to another location, would this be exempt from the Rule?**
A: *Yes.*
- Q #12: If a food establishment only serves deli meats, that are pre-sliced and packaged, are they exempt from the Rule?**
A: *Yes.*
- Q #13: Are establishments that prepare unpackaged, raw, potentially hazardous food, such as meat markets, exempt from the Rule?**
A: *No. Establishments engaged in the handling of open, raw, potentially hazardous foods must comply with the Rule.*

Q #14 Are pizzas that are prepared on site with precooked products exempt from the Rule?

A: *No, because the pizzas are baked after being assembled.*

Q #15: Is a food establishment that is preparing, rather than only serving, sandwiches with precooked items, exempt from the Rule?

A: *No, because the food establishment is preparing the sandwiches.*

Q #16: If a food establishment's only food product is a drink made by combining a powder and water (such as a protein drink), would they be exempt from the Rule?

A: *If the final product is considered a potentially hazardous food then they are not exempt.*

Q #17: What if an establishment does not have any documentation as to the certified food handler's identity, proof of certification, etc.?

A: *Section 18 of the Rule addresses the penalties that may be assessed for such a violation as it is the responsibility of the certified food handler to provide the certificate, letter, or document for verification of passing the examination. If non-compliance with the Rule results with a violation of Section 118 of 410 IAC 7-24, enforcement action may be used.*

Q #18: If the employer pays for the certification of the individual, can the employer refuse to give the employee the certificate they received for passing the examination if the employee terminates employment with that establishment?

A: *That is a question that would have to be dealt with between the establishment and the employee. In accordance with the CFP-ANSI standards, the certification is issued to the individual passing the examination and does stay with the same person regardless of who paid for the certification. The employer can not use the certificate of someone who is not employed with the establishment to meet the certification law.*

Q #19: What is the minimum age for food handler certification?

A: *The statute, Rule and CFP-ANSI standards do not have a minimum age for becoming a certified food handler. However, the certified food handler must have food oversight capacity for food safety.*

Q #20: Does the Rule apply to a privately operated food establishment inside of a hospital that is exempt from certification?

A: *Yes. If the food establishment is not operating under the hospital's license and is licensed and inspected by a local health department (which may be the case in some situations), the retail food establishment will need to comply, unless otherwise exempt by menu or by tax-exemption.*

Q # 21: Is a food establishment that serves only German roasted pecans (nuts) exempt from the Rule?

A: *Yes.*

Q #22: Is a hospice facility defined under IC 16-25 exempt from the Rule?

A: *No, unless exempted by menu or by tax-exemption.*

Q #23: Are "carry-in" or "pot luck" meals at a church or organization exempt from the Rule?

A: *Yes, carry-in and pot luck meals at a non-profit organization are exempt from the Rule.*

Q # 24 If you are having a catered event at a non-profit facility, does the caterer have to have a certified food handler.

Yes, the caterer must have a certified food handler.

- Q #25: Are the penalties stated in Section 18 of 410 IAC 7-22 assessable to the owner, operator, or person-in-charge of the establishment found in violation?**
- A:** *These penalties, as with most all penalties assessed to food establishments, are assessable to the legal owner of the facility. In the case of an incorporated entity, the penalties are usually assessed to the legally named corporate officer(s). These penalties are not meant to be assessed to an employee.*
- Q #26: How long does a food establishment have to comply with the Rule after their certified food handler has left their employment?**
- A:** *The establishment has three (3) months to come in to compliance with the Rule. Consideration should be given to employing a second certified food handler to avoid this problem.*
- Q #27: What if the establishment's certified food handler terminates employment with the facility, then the establishment gets another food handler certified who leaves after a short while, etc., when does this become a pattern of continuous three (3) month intervals of establishments without certified food handlers?**
- A:** *Anytime a certified food handler terminates employment or their employment is terminated, the food establishment has 3 months to replace the certified food handler.*
- Q #28: How frequently are inspectors supposed to check for compliance with the Rule?**
- A:** *Local health departments are authorized by law to check at any time.*
- Q #29: Can a local health department deny the issuance of a permit based on the fact that the establishment cannot produce proof that they employ a certified food handler?**
- A:** *Section 18 of 410 IAC 7-22 addresses the penalties that may be assessed for such a violation as it is the responsibility of the certified food handler to provide the certificate, letter, or document for verification of passing the examination. If a local health department adopts a local ordinance, you could use non-compliance with the ordinance as a basis to deny a permit.*
- Q #30: What if, upon inspection at an establishment, it is noted that the certification held by the designated food handler is not one that is ANSI approved? In other words, what if they don't hold a valid certification?**
- A:** *It would be noted on the inspection report as a violation of 410 IAC 7-22 and/or 410 IAC 7-24. It would be up to each individual local health department as to what timeframe for correction is given to the establishment. Penalties, if assessed, must be assessed in accordance with 410 IAC 7-22-19 or 410 IAC 7-23.*
- Q #31: Does the certified food handler's original certificate need to be on-site or would a copy kept at the establishment meet the intent of the Rule?**
- A:** *The Rule does not specifically state that the original certificate has to be kept on-site, but for the sake of preventing the potential for a food handler to provide copies to multiple food establishments, the original certificate would be preferable (not mandatory).*
- Q #32: Can the examination provider be required to provide information of certified persons to the local health department?**
- A:** *No. Although this arrangement would be extremely helpful to the local health department, it will probably be very labor intensive for those offering the exams for the following reasons: (1) many times there are multiple counties represented in one (1) sitting of an exam making recordkeeping, copying and mailing a hardship on those entities; (2) the cost of copying, mailing, etc. would need to be absorbed by the entity offering the exam; (3) normally it isn't a requirement to determine the county in which the examinee works in, but only where they live, therefore, making it difficult for the entity offering the exam to know which county health department to inform. This request could be made by any local health department to entities offering the exams, but it would only be voluntary.*

Q #33: How may local health departments keep track of the certified food handlers employed by each food establishment?

A: *As the enforcement of the certification requirements and tracking mechanism will be up to each local health department, the following are merely suggestions to promote consistency throughout the state. It is important to realize that due to the transient nature of employees in the food industry, maintaining a current listing of certified food handlers per establishment will be extremely difficult. The following ideas could be used for monitoring and tracking the certified food handlers identified by each food establishment by a local health department:*

- 1. The Indiana State Department of Health's "FIRMS" computer program is also designed to help track this and could be utilized in the future.*
- 2. Document on an inspection report during routine inspections of who the establishment identifies as their certified food handler. This is a box to be completed on the new inspection report.*
- 3. A copy could be requested from each establishment of the document [required in Section 15(c)] that proves their employee successfully passed an approved examination. This copy could be put into the establishment's file and updated as necessary. If there is a question of whether someone is actually employed by the establishment, employment records or timecards could be requested for verification.*

Q #34: Are pharmacies that sell only prepackaged foods exempt from the law?

A: *Yes.*

Q #35: If a food establishment that is exempt by menu, but has more than 10,000 square feet of total retail sales space, exempt from the law?

A: *No, the belief is that because of the large volume of food moving through a facility of this size that there should be a certified food handler overseeing food safety.*

Q #36 Is the Rule still valid as a result of changes to IC 16-42-5.2 during the 2005 session of the General Assembly?

A: *Yes, the Rule is still in effect, however, Section 15 of the Rule is no longer correct or valid because of the changes. The statute must be used in place of this section until such time we have been able to update the Rule through a formal rule promulgation process.*

Note: The Food Protection Program has determined that there is a distinct difference between the "serving" of food products and the "preparation" of the same. The process of preparation involves much more handling of open food, whether raw or precooked, potentially hazardous food and therefore the risks are dramatically increased as a result. Therefore, the process of preparation was singled out within the scope of the new menu exemptions. It is difficult to make this judgment at times and so it must be made on a case by case basis. The following list has been provided as a guide to help you with this process. It is neither all in inclusive or exclusive and most likely will be modified over time as new information becomes available.

***THIS IS NOT AN ALL-INCLUSIVE LIST AND IT IS SUBJECT TO CHANGE
WHENEVER FURTHER INTERPRETATIONS BECOME AVAILABLE***

EXEMPT FOOD ITEMS

- Heating or serving precooked foods
- Any prepackaged food sold in its original package, either potentially or non-potentially hazardous
- Popcorn, kettle corn, caramel corn, and chips
- Shaved ice products and ice
- Cotton candy, elephant ears & funnel cakes
- Continental breakfast items (i.e., rolls, coffee, juice, milk, cold cereal)
- Pretzels with open dips (i.e., cheese and marinara that are pre-manufactured)
- Roasting and grinding of coffee beans
- Deli's that only serve pre-sliced meat and cheese
- Deli's serving pre-manufactured salads (i.e., potato and macaroni salads)
- Baked goods (i.e., bread, doughnuts, rolls, cookies)
- Confectionaries (i.e., candy, jams, jellies)
- Any non-potentially hazardous beverages (i.e., "slushies", wine, beer, soft drinks)
- Spices and dry rubs
- Vegetables, fruit and herbs (i.e., produce stands that are not cutting melons)
- Hot dogs with simple condiments (i.e., ketchup, mustard, relish)
- Canned soups, sauces, and dips
- Waffles and pancakes, syrup
- Honey, maple syrup and sorghum
- Air-cooled hard boiled eggs

NON-EXEMPT FOOD ITEMS

- Ice cream not packaged
- Unpackaged drinks/beverages that are composed of potentially hazardous food ingredients (i.e., milk shakes, coffee and smoothie drinks made with dairy products)
- Cooking raw meat products (i.e., hamburgers, chicken, sausage, bacon, steaks, and pork)
- Potentially hazardous food handling (i.e., meat cutting rooms, deli's slicing meat and cheeses)
- Cream pies made from scratch
- Soups and gravies made onsite with potentially hazardous foods
- Eggs prepared on site
- Sandwiches prepared onsite with potentially hazardous foods
- Dipping sauces prepared onsite with potentially hazardous foods
- Processed foods prepared onsite (i.e., such as acidified, low acid canned, smoked and garlic and oil mixtures)
- Other foods prepared onsite with potentially hazardous foods (i.e., tacos, salads, egg rolls)
- Hot dogs and nachos prepared onsite with potentially hazardous food toppings
- Cutting of melons and raw seed sprouts
- Seafood (i.e., fish, crustaceans, molluscan shellfish)