

**CHAPTER 76. FOOD EMPLOYEE CERTIFICATION**

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**Authority**

The provisions of this Chapter 76 issued and amended under the Food Employee Certification Act, 3 Pa.C.S. §§ 6501—6510, unless otherwise noted.

**Source**

The provisions of this Chapter 76 adopted October 1, 1999, effective October 2, 1999, 29 Pa.B. 5069, unless otherwise noted.

**§ 76.1. Compliance.**

(a) *Mandatory compliance.* On or after July 1, 2004, a food establishment shall comply with the act and this chapter, unless it is exempt under subsection (d).

(b) *Interim compliance optional.* A food establishment need not comply with the act or this chapter until July 1, 2004, but is encouraged to do so in advance of that date.

(c) *Benefit of interim compliance.* If a food establishment that voluntarily complies with the act and this chapter is the subject of an action to recover fines or penalties for a violation of the Food Act, and the violation occurs prior to July 1, 2004, the voluntary compliance of the food establishment will be considered a mitigating factor in determining whether the food establishment shall be assessed more than the minimum fine or civil penalty required by law.

(d) *Exemption for certain types of food establishments.* The following food establishments are exempt from the requirements of the act and this chapter:

- (1) A food establishment where only commercially prepackaged food is handled and sold.
- (2) A food establishment that does not handle potentially hazardous food.
- (3) A food establishment that is a food manufacturing facility engaged in the manufacture of prepackaged foods and which does not manufacture potentially hazardous food.
- (4) A food establishment managed by an organization which is a tax-exempt organization under section 501(c)(3) of the Internal Revenue Code of 1986 (26 U.S.C.A. § 501(c)(3)).
- (5) A food establishment managed on a not-for-profit basis by an organization which is a volunteer fire company or an ambulance, religious, charitable, fraternal, veterans, civic, agricultural fair or agricultural association or any separately chartered auxiliary of those associations.
- (6) A food establishment managed by an organization which is established to promote and encourage participation and support for extracurricular recreational activities for youth of primary and secondary public, private and parochial school systems on a not-for-profit basis.

#### Source

The provisions of this § 76.1 amended August 6, 2004, effective August 7, 2004, 34 Pa.B. 4139. Immediately preceding text appears at serial pages (260081) to (260082).

#### Cross References

This section cited in 7 Pa. Code § 76.3 (relating to requirements for food establishments).

### § 76.2. Definitions.

The following words and terms, when used in this chapter, have the following meanings unless otherwise defined in Chapter 46 (relating to food code):

*Act*—3 Pa.C.S. Chapter 65 (relating to the Food Employee Certification Act).

*Advisory Board* or *Board*—The Food Employee Certification Advisory Board.

*Bacteria*—Single cell microorganisms.

*CFP* or *Conference for Food Protection*—An independent, National voluntary nonprofit organization to promote food safety and consumer protection.

(i) Objectives of the organization include identifying and addressing food safety problems and promoting uniformity of regulations in food protection.

(ii) Participants include Federal, State and local regulatory agencies, several universities, test providers, certifying organizations, consumer groups, food service and retail store trade associations and operators.

*Certificateholder*—A person holding a valid certificate.

*Certification category*—A designation of one of the four types of Department-approved certification training programs, indicating the depth of

food safety training received by a person who successfully completes such a program. The four certification categories are as follows:

- (i) General certification category.
- (ii) Process-specific certification category.
- (iii) Modified certification category.
- (iv) Nonprofit certification category.

*Certified supervisory employee*—A supervisory employee holding a valid certificate.

*Cleaning*—The process by which dirt or other foreign matter is removed from an article.

*Department*—The Department of Agriculture of the Commonwealth.

*Food*—

(i) A raw, cooked or processed edible substance, ice, beverage or ingredient used or intended for use or for sale in whole or in part for human consumption, or chewing gum.

(ii) The term does not include medicines and drugs.

*Food Act*—The Food Act (31 P. S. §§ 20.1—20.18).

*Food contact surface*—One of the following:

(i) A surface of equipment or a utensil with which food normally comes into contact.

(ii) A surface of equipment or a utensil from which food may drain, drip or splash into a food or onto a surface normally in contact with food.

*Food establishment*—

(i) A room, building, place or portion thereof or vehicle maintained, used or operated for the purpose of selling to the public, commercially storing, packaging, making, cooking, mixing, processing, bottling, baking, canning, freezing, packing or otherwise preparing, transporting or handling food.

(ii) The term includes retail food stores and public eating and drinking licensees, except those portions of establishments operating exclusively under milk or milk products permits and those portions of establishments operating exclusively under United States Department of Agriculture inspection.

(iii) The term does not include dining cars operated by a railroad company in interstate commerce or a bed and breakfast, homestead or inn as defined in the Public Eating and Drinking Place Law.

*Frozen dessert manufacturer*—A food establishment that is located in this Commonwealth and that is required to be licensed under authority of the Frozen Dessert Law (31 P. S. §§ 417-1—417.14).

*HACCP—Hazard Analysis Critical Control Point*—A system that identifies and monitors specific foodborne hazards (biological, chemical or physical properties) that can adversely affect the safety of the food product.

*Limited handling of potentially hazardous foods*—

(i) Food handling activities that are limited to the placement of a potentially hazardous food on or into a warming, heating or cooking unit.

(ii) The term includes activities such as placing a hot dog on a roller, placing a pizza in a cooking/warming unit or warming a premade sandwich in a microwave oven.

*Person*—A corporation, partnership, limited liability company, business trust, other association, government entity (other than the Commonwealth), estate, trust, foundation or natural person.

*Potentially hazardous food*—

(i) A food which consists in whole or in part of milk or milk products, eggs, meats, poultry, fish, shellfish, edible crustaceans or other ingredients, including synthetic ingredients, and which is in a form capable of supporting rapid and progressive growth of infectious or toxigenic microorganisms.

(ii) The term does not include foods that have a pH level of 4.6 or below or a water activity of 0.85 or less under standard conditions or food products in hermetically sealed containers processed to maintain commercial sterility.

*Public eating and drinking place*—

(i) A place within this Commonwealth where food or drink is served to or provided for the public, with or without charge, or a place which otherwise conforms to the definition in section 1 of the Public Eating and Drinking Place Law (35 P. S. § 655.1).

(ii) The term does not include dining cars operated by a railroad company in interstate commerce or a bed and breakfast homestead or inn.

*Public Eating and Drinking Place Law*—The act of May 23, 1945 (P. L. 926, No. 369) (35 P. S. § 655.1—655.13).

*Retail food store*—A food establishment or a section of a food establishment where food and food products are offered to the consumer and intended for off-premises consumption.

*Sanitizing*—The application of cumulative heat or chemicals on cleaned food contact surfaces that, when evaluated for efficacy, yield a reduction of 5 logs, which is equal to a 99.999% reduction, of representative disease microorganisms of public health importance.

*Secretary*—The Secretary of the Department.

*Supervisory employee*—An owner or a person employed by or designated by the business owner to fulfill the requirements of the act, and who has supervisory authority and is responsible for the storage, preparation, display or serving of foods to the public in establishments regulated by the Department or local health organizations.

*Time and temperature*—Important factors in controlling the growth of pathogenic organisms in potentially hazardous foods.

*Water activity*—A measure of the free moisture in a food. The term is the quotient of the water vapor pressure of the substance divided by the vapor pressure of pure water at the same temperature, and is indicated by the symbol  $AW_w$ .

**Source**

The provisions of this § 76.2 amended August 6, 2004, effective August 7, 2004, 34 Pa.B. 4139. Immediately preceding text appears at serial pages (260082) to (260088).

**§ 76.3. Requirements for food establishments.**

(a) *General requirement.* A food establishment that is not exempt from compliance under § 76.1(d) (relating to compliance) shall comply with the act and this chapter.

(b) *Certified supervisory employee.* A food establishment shall employ or designate at least one certified supervisory employee who holds a valid certificate issued by the Department under authority of the act and this chapter. The certificate shall be in the general certification category unless one of the following applies:

(1) The food establishment engages only in one or more specific, identified food processing activities (such as making cider or preparing frozen desserts), in which case a certificate in the process-specific certification category, pertinent to the processing conducted at the food establishment, shall suffice.

(2) The food establishment's personnel engage only in the limited handling of potentially hazardous foods (such as persons who handle food products that do not require any preparation by the food establishment other than to place the food on or in a cooking or warming unit), in which case a certificate in the modified certification category, pertinent to the food handling conducted at the food establishment, shall suffice.

(3) The food establishment is a nonprofit entity that, although otherwise exempt from compliance under § 76.1(d) voluntarily seeks certification under section 4(c)(2) of the act, regarding certification of employees, in which case a certificate in the nonprofit certification category shall suffice.

(c) *New food establishment.* A new food establishment shall comply with subsection (b) within 90 days of the date it commences operation.

(d) *Employee turnover.* If a food establishment loses its only certified supervisory employee through employee turnover or for any other reason, the food establishment shall comply with subsection (b) within 3 months of the date it lost its previous certified supervisory employee.

(e) *Certification records.* A food establishment shall maintain, at the food establishment site, a list of certified supervisory employees under its employment during the last 4 months including: name, certificate number, certification category, issuance date, expiration date, date employment began and date employment terminated.

(f) *Availability of records.* Upon request by the Department, a food establishment shall make the records described in subsection (e) available for inspection by the Department during normal business hours of the food establishment.

(g) *Posting of certificate.* A food establishment shall post the original certificate of its certified supervisory employee in public view at its business location.

(h) *Return of certificate.* A certificate is the property of the Department and is issued to the individual person identified on its face. A food establishment shall promptly deliver the certificate to a certified supervisory employee who leaves the employ of the food establishment or who otherwise ceases to be a certified supervisory employee with respect to that establishment.

#### Source

The provisions of this § 76.3 amended August 6, 2004, effective August 7, 2004, 34 Pa.B. 4139. Immediately preceding text appears at serial pages (260088) to (260089).

#### Cross References

This section cited in 7 Pa. Code § 76.11 (relating to certificate).

### § 76.4. Eligibility to apply for certification.

(a) *Training program required.* A person shall successfully complete an approved certification training program, including a certification examination, to be eligible to apply to the Department for certification.

(b) *Timeliness of training.* A person is not eligible to apply to the Department for certification unless the certification examination was administered within 5 years preceding the date the application is delivered to the Department.

(c) *Exception to examination requirement.* Subsection (a) notwithstanding, a certification examination is not required when a person is applying for certification in the nonprofit certification category.

#### Source

The provisions of this § 76.4 amended August 6, 2004, effective August 7, 2004, 34 Pa.B. 4139. Immediately preceding text appears at serial page (260089).

### § 76.5. Certification training programs: Obtaining the Department's approval.

(a) *Approval required.* A person shall obtain the Department's approval of a training program before the certification training program will be considered an approved certification training program for purposes of the act and this chapter. Substantive revisions or changes to a previously-approved certification training program shall also be approved by the Department. Although nonsubstantive revisions to a previously-approved certification training program do not require approval of the Department, notice of these nonsubstantive revisions shall be communicated in writing to the Department, at the address in § 76.16 (relating to contacting the Department), before being implemented. Approval under this

section authorizes a person to develop and approve certification examinations, conduct certification examinations and certify the results of certification examinations to the Department in accordance with this chapter.

(b) *General requirements for approval.*

(1) *Approval of program.* The Department will approve a certification training program if it meets the food safety protection and training standards described in § 76.7 (relating to certification training programs: Food safety protection and training standards), fits within one of the certification categories described in paragraph (2) and has been recommended for approval by the Advisory Board. The Department's approval of a certification training program will not be contingent upon any minimum number of hours of instruction, in light of the other requirements for certification training program approval described in this section.

(2) *Certification categories.* The Department may approve a certification training program in one of four certification categories. These categories, and the requisites for inclusion of a certification training program within each, are as follows:

(i) *General certification category.* The Department will approve a certification training program in the general certification category if one of the following applies:

(A) The training program addresses the topics set forth in § 76.7(a).

(B) The training program is a Federally-mandated HACCP training program for juice, seafood, meat or poultry.

(ii) *Process-specific certification category.* The Department will approve a certification training program in the process-specific certification category if both of the following apply:

(A) The subject matter of the training program relates to one or more specific, identified food processing activities (such as making cider or preparing frozen desserts).

(B) The training program addresses the topics in § 76.7(a) in a manner specifically directed to the food processing activities that are the identified subject matter of the training program.

(iii) *Modified certification category.* The Department will approve a certification training program in the modified certification category if both of the following apply:

(A) The subject matter of the training program is addressed to persons who handle potentially hazardous food on only a limited basis (such as persons who handle food products that do not require any preparation by the food establishment other than to place the food on or in a cooking or warming unit).

(B) The training program addresses the topics in § 76.7(a) in a manner specifically directed toward persons who handle potentially hazardous

food on only a limited basis, and in a less-comprehensive manner than a certification training program in the general certification category.

(iv) *Nonprofit certification category.* The Department will approve a certification training program in the nonprofit certification category if either of the following apply:

(A) The training program is developed and administered by the Department under authority of section 4(g)(2) of the act regarding relating to certification of employees, and meets the course content requirements in § 76.7(b).

(B) The training program is developed and administered by an entity other than the Department, and meets the course content requirements in § 76.7(b).

(c) *Obtaining an application form.* The Department will provide an application form for certification training program approval, or an application form for approval of revisions or changes to a previously-approved certification training program, upon request. Requests for these forms shall be directed to the Department at the address in § 76.16.

(d) *Contents: application for certification training program approval.* The application form for certification training program approval shall require the following information:

(1) The applicant's name, address and telephone number.

(2) A course syllabus demonstrating that the program would meet the course content requirements in § 76.7.

(3) A designation of the certification category (whether general, process-specific, modified or nonprofit), as described in subsection (b)(2), with respect to which approval of the training program is sought.

(4) One of the following:

(i) A copy of the examination to be administered at the conclusion of the certification training program, together with an answer key for that examination, if these documents are available.

(ii) The name of the CFP-accredited examination to be administered at the conclusion of the certification training program.

(5) A copy of all teacher materials for the certification training program, unless the certification training program is a home-study program.

(6) A copy of all materials to be distributed to persons taking the program.

(7) If the certification program is a home study program, the proposed site and date the approved certification examination is to be administered, if available.

(8) Other information the Department might reasonably require in evaluating the certification training program.

(e) *Contents: application for approval of changes or revisions to a previously-approved certification training program.* The application form for approval of changes or revisions to a previously-approved certification training

program shall require the applicant's name, address and telephone number and only the information listed in subsection (d) that is relevant to the change or revision with respect to which approval is sought.

(f) *Deadline for filing the application.* An application for certification training program approval or for approval of changes or revisions to a previously-approved certification training program shall be delivered to the Department, at the address in § 76.16, at least 90 days in advance of the proposed date upon which the program is to be conducted.

(g) *Departmental and Advisory Board action on application.* The Department and the Advisory Board will consider application materials submitted to them under subsection (d)(4)—(6) confidential and the proprietary documents of the applicant, and will make no distribution of these materials. The Advisory Board will consider whether to recommend Departmental approval of a certification training program. If a simple majority of a quorum of the Advisory Board recommends Departmental approval of a certification training program, the Department will grant its approval, if the other criteria in subsection (b) are met. The Department will mail the applicant its written approval of the certification training program, its denial of approval or a request for additional clarification or documentation.

#### Source

The provisions of this § 76.5 amended August 6, 2004, effective August 7, 2004, 34 Pa.B. 4139. Immediately preceding text appears at serial pages (260089) to (260091).

#### Cross References

This section cited in 7 Pa. Code § 76.8 (relating to certification examination requirements); 7 Pa. Code § 76.10 (relating to applying for certification); 7 Pa. Code § 76.11 (relating to certificate); and 7 Pa. Code § 76.17 (relating to preemption and local governmental authority).

### § 76.6. Certification training programs: Audit by Department.

The Department may attend and audit an approved certification training program to ascertain whether the program is conducted in accordance with the act and in conformity to the program syllabus. A person offering or conducting an approved certification training program shall allow the Department's auditors entry to the program and provide copies of course materials.

### § 76.7. Certification training programs: Food safety protection and training standards.

(a) *Content in general.* A certification training program in the general certification category, the process-specific certification category or the modified certification category shall contain instruction in the following topics:

- (1) Foodborne illness.
- (2) Time and temperature.
- (3) Relationship between personal hygiene and food safety.

- (4) Food safety tracking system.
- (5) Cleaning and sanitizing.
- (6) Facilities and equipment layout.
- (7) Statutory and regulatory requirements.

(b) *Content for courses in the nonprofit certification category.* A certification training program in the nonprofit certification category shall contain instruction in the following topics:

- (1) Food safety, with a portion addressing food safety considerations in the context of fund-raising events.
- (2) Foodborne illness.
- (3) Food safety tracking system.

#### Source

The provisions of this § 76.7 amended August 6, 2004, effective August 7, 2004, 34 Pa.B. 4139. Immediately preceding text appears at serial pages (260091) to (260096).

#### Cross References

This section cited in 7 Pa. Code § 76.5 (relating to certification training programs: Obtaining the Department's approval).

### § 76.8. Certification examination requirements.

A certification examination shall be administered at the conclusion of an approved certification training course, except for a training course in the "non-profit" certification category. The examination shall adequately test food protection knowledge with respect to the certification category of the approved certification training course.

(1) If the certification category of the approved certification training course is the "general" certification category described in § 76.5(b)(2) (relating to certification training programs: Obtaining the Department's approval), the examination shall consist of at least 80 questions (100 questions being the recommended minimum), and the minimum passing score shall be 75%. If the examination is accredited by CFP, or is an examination administered as a requirement for passing a Federally-mandated HACCP training program for juice, seafood, meat or poultry, the examination format, number of questions and passing score shall be as determined by the body that prepared the examination.

(2) If the certification category of the approved certification training course is the "process-specific" certification category described in § 76.5(b)(2), the examination shall consist of at least 80 questions, and the minimum passing score shall be 75%. If the examination is accredited by CFP or is an examination administered as a requirement for passing a Federally-mandated HACCP training program for juice, seafood, meat or poultry, the examination format, number of questions and passing score shall be as determined by the body that prepared the examination.

(3) If the certification category of the approved certification training course is the “modified” certification category described in § 76.5(b)(2), the examination shall consist of at least 40 questions, and the minimum passing score shall be 75%. If the examination is accredited by CFP or is an examination administered as a requirement for passing a Federally-mandated HACCP training program for juice, seafood, meat or poultry, the examination format, number of questions and passing score shall be as determined by the body that prepared the examination.

(4) If the certification category of the approved certification training course is the “nonprofit” certification category, an examination shall not be required.

**Source**

The provisions of this § 76.8 amended August 6, 2004, effective August 7, 2004, 34 Pa.B. 4139. Immediately preceding text appears at serial page (260096).

**Cross References**

This section cited in 7 Pa. Code § 76.10 (relating to applying for certification).

**§ 76.9. Reporting results of a certification examination.**

(a) *Reporting results to the program participant.* A person who proctors a certification examination shall, within 30 calendar days of proctoring the examination, mail or deliver written confirmation of the following to any person who took the examination:

- (1) The person’s examination score, expressed as the percentage of correct answers.
- (2) The date and location of the examination.
- (3) The name of the course instructor.
- (4) If the approved certification training program preceding the examination required a specific level of food-safety-related education or experience as a prerequisite to participating in the training program, confirmation that this requirement was met.

(b) *Reporting results to the Department.* Within the 30-day time period described in subsection (a), the proctor shall mail the same information to the Department at the address in § 76.16 (relating to contacting the Department), using either a form provided by the Department upon request, or a copy of the written confirmation the proctor provided the person who took the examination.

**Source**

The provisions of this § 76.9 amended August 6, 2004, effective August 7, 2004, 34 Pa.B. 4139. Immediately preceding text appears at serial page (260096).

**§ 76.10. Applying for certification.**

(a) *Application required.* A person who has completed an approved certification training course and attained a score equal to or higher than the minimum passing score required under § 76.8 (relating to certification examination requirements) on a certification examination administered within 5 years preceding the date the application is delivered to the Department may apply to the Department

for certification. Certification is granted through issuance of the certificate described in § 76.11 (relating to certificate).

(b) *Form of application.* A person seeking certification under the act, or any other person, may obtain an application form from the Department at the address in § 76.16 (relating to contacting the Department). The applicant shall complete the form and return it to that same address. The application form requires the following information:

(1) The name and mailing address of the person seeking certification.

(2) The location and dates of any approved certification program completed by the person seeking certification.

(3) The location and date of the certification examination.

(4) The certification category of the approved certification training program (as described in § 76.5 (relating to certification training programs: obtaining the Department's approval))—whether general, process-specific, modified or nonprofit.

(5) Other information the Department might reasonably require in determining whether to issue the applicant a certificate.

(c) *Application fee.* A person applying for certification under this section shall pay an application fee of \$20, by check or money order made payable to the "Commonwealth of Pennsylvania." This payment shall accompany the application.

(d) *Department action on application.* The Department will mark or stamp the date of receipt upon each application it receives and will, within 30 days of receiving an application and the application fee, mail the applicant a certificate, a disapproval notice or a request for additional clarification or documentation.

#### Source

The provisions of this § 76.10 amended August 6, 2004, effective August 7, 2004, 34 Pa.B. 4139. Immediately preceding text appears at serial page (260097).

#### Cross References

This section cited in 7 Pa. Code § 76.15 (relating to suspension or revocation of certification).

### § 76.11. Certificate.

(a) *Contents of certificate.* A certificate will bear the following information:

(1) The name of the person to whom it is issued.

(2) The certification category of the approved certification program (as described in § 76.5 (relating to certification training programs: obtaining the Department's approval))—whether general, process-specific, modified or nonprofit.

(3) The date upon which the certificate was issued.

(4) The expiration date of the certificate, which shall be 5 years from the date of issuance.

(5) A unique identification number.

(6) A statement that the Department has determined the person identified on the certificate to possess adequate food protection knowledge and to be a certificateholder with respect to the industry-specific category of food establishment designated on the certificate.

(7) Other information the Department might reasonably include on the certificate.

(b) *Ownership of certificate.* A certificate issued by the Department will remain the property of the Department. A certificateholder, certified supervisory employee, food establishment or other person having physical possession of a certificate shall, upon written notice from the Department, surrender and return the certificate to the Department.

(c) *Obligation to allow display.* A certified supervisory employee shall allow his employer to display the certificate issued by the Department, as required in § 76.3(g) (relating to requirements for food establishments). Upon termination of a certified supervisory employee's employment, the employer shall surrender the certificate to the certificateholder named on the certificate.

(d) *Replacement of certificate.* The Department will issue a certificateholder a replacement certificate and mail it to the certificateholder within 30 days of receiving a written request for a replacement certificate from the certificateholder and an explanation of the need for the replacement certificate.

#### Source

The provisions of this § 76.11 amended August 6, 2004, effective August 7, 2004, 34 Pa.B. 4139. Immediately preceding text appears at serial pages (260097) to (260098).

#### Cross References

This section cited in § 76.10 (relating to applying for certification); and 7 Pa. Code § 76.12 (relating to renewal of certification).

### § 76.12. Renewal of certification.

(a) *General requirement.* A certificateholder shall complete an approved certification training program every 5 years, commencing with the date the certificate is issued. The approved certification training program will not require a written examination as a condition of completion. If a certificateholder fails to obtain this approved continuing education and deliver a complete certification renewal application to the Department prior to the expiration date of the certificate, the certificate shall expire and the certificateholder shall successfully complete an approved certification program and a certification examination before certification will be granted. A person who seeks to change the certification category with respect to which that person is currently certified may not do so through the certification renewal process described in this section, but shall follow the training and application procedure for initial certification.

(b) *Application for renewal.* A person seeking renewal of certification under this section, or any other person, may obtain an application form from the Depart-

ment at the address in § 76.16 (relating to contacting the Department). The applicant shall complete the form and return it to that same address. The form requires the following information:

- (1) The name and mailing address of the applicant.
- (2) Copies of course descriptions, course-completion certificates, college course transcripts and descriptions and similar documentation to evidence compliance with the requirement in subsection (a).
- (3) The certification category appearing on the applicant's current certificate.
- (4) The identification number and expiration date of the certificate.
- (5) Other information the Department might reasonably require in considering renewal of the certificate.

(c) *Application fee.* A person applying for recertification under this section shall pay an application fee of \$20, by check or money order made payable to the "Commonwealth of Pennsylvania." This payment shall accompany the application.

(d) *Departmental action on application.* The Department will, within 30 days of receiving an application, mail the applicant a certificate (as described at § 76.11(a) (relating to certificate)), its denial of renewal of certification or a request for additional clarification or documentation.

#### Source

The provisions of this § 76.12 amended August 6, 2004, effective August 7, 2004, 34 Pa.B. 4139. Immediately preceding text appears at serial pages (260098) to (260099).

#### Cross References

This section cited in 7 Pa. Code § 76.13 (relating to obtaining Departmental approval of a continuing education course).

### § 76.13. Obtaining Departmental approval of a continuing education course.

(a) *Approval required.* A person shall obtain the Department's approval of a continuing education course before the course will be considered an approved continuing education course for purposes of § 76.12 (relating to renewal of certification). Revisions or changes to a previously-approved continuing education course must also be approved by the Department.

(b) *General requirements for approval.* The Department will approve a continuing education course, and the certification category of that course, if the course instructs participants in current food protection practices, fits within the certification category with respect to which approval is sought and has been recommended for approval by the Advisory Board.

(c) *Application for approval.* A person seeking the Department's approval of a continuing education course under this section may obtain an application form from the Department at the address in § 76.16 (relating to contacting the Depart-

ment). The applicant shall complete the form and return it to that same address. The form shall require the following information:

- (1) The name and mailing address of the applicant.
- (2) A course syllabus demonstrating that the course addresses regulatory or food industry changes, updates or advancements, or offers a general review of food safety considerations and procedures.
- (3) A copy of all teaching materials for the course.
- (4) A copy of all materials to be distributed to persons taking the course.
- (5) The proposed sites and dates of the course.
- (6) The certification category with respect to which approval is sought.
- (7) Other information the Department might reasonably require in evaluating whether to approve the continuing education course.

(d) *Departmental and Advisory Board action on application.* The Department and the Advisory Board will consider application materials submitted to them under subsection (c)(3) and (4) confidential and the proprietary documents of the applicant, and will make no distribution of these materials. The Advisory Board will consider whether to recommend Departmental approval of the continuing education course. If a simple majority of a quorum of the Advisory Board recommends Departmental approval of a continuing education course, the Department will grant its approval, if the other requirements of subsection (b) are met. The Department will mail the applicant its written approval of the continuing education course, its denial of approval or a request for additional clarification or documentation.

#### Source

The provisions of this § 76.13 amended August 6, 2004, effective August 7, 2004, 34 Pa.B. 4139. Immediately preceding text appears at serial pages (260099) to (260100).

### § 76.14. Reciprocity with other states.

The Department may accept certification issued to a person by another state if the following apply:

- (1) The other state has requirements for certification that are comparable to those imposed by the act.
- (2) The Department and the other state jurisdiction have entered into a reciprocal agreement to accept each state's certification program as meeting the requirements of the act.

### § 76.15. Suspension or revocation of certification.

(a) *Basis for action.* The Department may suspend or revoke the certification of a certificateholder if that person does one or more of the following:

- (1) Violates a provision of this chapter.
- (2) Violates another sanitation regulation.

(3) Violates the Public Eating and Drinking Place Law or its attendant regulations.

(4) Violates the Food Act or its attendant regulations.

(b) *Notice.* The Department will provide a certificateholder with written notice of its intention to suspend or revoke certification, which will apprise the certificateholder of the duration of the suspension or revocation and afford that person notice and opportunity for an administrative hearing before the Department prior to the effective date of the suspension or revocation.

(c) *Delivery of notice.* The Department will deliver the notice described in subsection (b) to the affected certificateholder by personal service or by regular mail to the address provided by the certificate holder on his application for certificate under § 76.10 (relating to applying for certification).

(d) *Reinstatement.* If a period of suspension ends before the expiration date of the suspended certificate, the certificate will be considered reinstated at the end of the suspension period. If a certificate is suspended and the period of suspension ends after the expiration date of the suspended certificate, the certificate is expired and the holder of the expired certificate may reapply for certification at the end of the suspension period in accordance with the act and this chapter.

#### § 76.16. Contacting the Department.

A person seeking applications or information relating to the act or this chapter shall forward the request, in writing, to the following address:

ATTN: Food Employee Certification  
Department of Agriculture  
Bureau of Food Safety and Laboratory Services  
2301 North Cameron Street  
Harrisburg, Pennsylvania 17110-9408

#### Source

The provisions of this § 76.16 amended August 6, 2004, effective August 7, 2004, 34 Pa.B. 4139. Immediately preceeding text appears at serial page (260101).

#### Cross References

This section cited in 7 Pa. Code § 76.5 (relating to certification training programs: Obtaining the Department's approval); 7 Pa. Code § 76.9 (relating to reporting results of a certification examination); 7 Pa. Code § 76.10 (relating to applying for certification); 7 Pa. Code § 76.12 (relating to renewal of certification); and 7 Pa. Code § 76.13 (relating to obtaining Departmental approval of a continuing education course).

#### § 76.17. Preemption and local governmental authority.

(a) *General.* The regulation of food safety protection and training standards for employees of food establishments is preempted by the Department except that, in accordance with section 6503(f) of the act (relating to certification advi-

sory board and programs), a food employee certification program established by a county, city, borough or incorporated town or township prior to September 1, 1994, may remain in effect.

(b) *Limitation of local certification.* If a county, city, borough, incorporated town or township elects to operate a food employee certification program that was in existence prior to September 1, 1994, the certification of persons under that local program shall be valid only within the geographic boundaries of the local government unit. This program validity may be extended to other states or local government units through agreements among other states, or local government units which operate food employee certification programs that predate September 1, 1994.

(c) *Option of certain local government units.* A county, city, borough, incorporated town or township having a food employee certification program that was in effect prior to September 1, 1994, may apply to the Department in accordance with the procedure in § 76.5 (relating to approved certification training programs: obtaining the Department's approval) to become an approved certification training program with respect to one or more certification category, as described in § 76.5(b)(2).

(d) *Effect of a local government unit's decision with respect to exercising option.* If a county, city, borough, incorporated town or township having a food employee certification program which was in effect prior to September 1, 1994, does not exercise the option described in subsection (c) or does not obtain Departmental approval of its certification training program, the unit of local government shall retain exclusive responsibility for certification of the food employees.

**Source**

The provisions of this § 76.17 amended August 6, 2004, effective August 7, 2004, 34 Pa.B. 4139. Immediately preceding text appears at serial pages (260101) to (260102).

**§ 76.18. [Reserved].**

**Source**

The provisions of this § 76.18 reserved August 6, 2004, effective August 7, 2004, 34 Pa.B. 4139. Immediately preceding text appears at serial pages (260102) to (260103).

**§ 76.19. Civil penalties.**

(a) *General.* The Department may assess a civil penalty of up to \$300 against a person or food establishment that violates the act or this chapter for the first offense. The Department may assess a penalty of up to \$1,000 for each subsequent offense.

(b) *Notice.* The Department will provide a person or food establishment written notice of a violation of the act or this chapter and an opportunity for an administrative hearing on the violation prior to the imposition of a civil penalty.

(c) *Time for correction of condition giving rise to civil penalty.* If the Department assesses a civil penalty against a food establishment for failing to have the required certified supervisory employee, it will allow the food establishment 90 days from the violation giving rise to the initial civil penalty before it may assess another civil penalty. During that 90-day period, the food establishment shall comply with the act and this chapter.

**Source**

The provisions of this § 76.19 amended August 6, 2004, effective August 7, 2004, 34 Pa.B. 4139. Immediately preceding text appears at serial page (260103).

[Next page is 77-1.]