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Food Protection Program Policies, Procedures and Guidelines

Issue: Food Protection Management

No: RF 2-1

590.003(A) Assignment of Responsibility

590.003(B) Demonstration of Knowledge

FC 2-103.11 Person in charge - Duties

Public Health Rationale

The federal 1999 Food Code promotes the concept of “active managerial control” which is the proper execution of control measures by the person in charge to assure all food served or offered for sale is safe. The level and effectiveness of food protection management within a food establishment should be based on the assignment, demonstration of knowledge and duties of the person in charge.

- The assignment of a person in charge ensures the continuous presence of someone who is responsible for monitoring and managing all food establishment operations and who is authorized to take actions to ensure compliance with the regulations.
- The designated person in charge who is knowledgeable about foodborne disease prevention, Hazard Analysis Critical Control Point (HACCP) principles, and the food establishment regulation is prepared to recognize hazards that may contribute to foodborne illness and take appropriate preventive and corrective actions.
- Duties of the person in charge are necessary to ensure that their facility is operating in compliance with the food establishment regulations. Specific duties include excluding unnecessary personnel from the operation, training and monitoring the food handling practices of employees, providing consumer advisories as required and notifying consumers of safe food handling requirements related to self-service operations.

Which Establishments are Required to Have a PIC?

105 CMR 590.003(A) Assignment of Responsibility requires all licensed food establishments to have a PIC present during all hours of operation. If an owner or manager, who is normally considered the PIC, leaves the establishment, then he or she may designate another person to be in charge to ensure that all the duties and obligations of the PIC are fulfilled. Examples of PIC duties include granting permission for the board of health to conduct an inspection or investigation, monitoring the food handling practices of employees, initiating corrective actions as necessary and ensuring that the establishment is operating in compliance with 105 CMR 590.000 and the federal 1999 Food Code.

Item #1-Food Protection Management on the Food Establishment Inspection Report Form should be debited if no PIC is assigned at the time of an inspection or investigation. The code reference is 105 CMR 590.003(A).

Which Establishments are Required to Have a PIC Who is Certified in Food Protection Management?

Effective 10/1/2001, 105 CMR 590.003(A)(2) requires that all establishments, except those listed below, have at least one PIC who has been certified in food protection management. This person must be at least eighteen years of age and be a full-time equivalent on-site manager or supervisor. At times, the FTE certified on-site PIC might be temporarily unavailable during operating hours. In such circumstances, he or she may designate an alternate PIC. The PIC does not need to be certified but must be knowledgeable about foodborne disease prevention, Hazard Analysis Critical Control Point (HACCP) principles, and the food establishment regulations. The alternate PIC must also be prepared to recognize hazards that may contribute to foodborne illness and take appropriate preventive and corrective actions.

The PIC for operations listed below is exempt from certification requirements but are still responsible for ensuring that their operations are in compliance with the regulations.

- Temporary food establishments operated by non-profit organizations
- Daycare operations which prepare and/or serve only snacks
- Food establishments which sell only pre-packaged foods
- Food establishments which conduct limited preparation of non-potentially hazardous food
- Food establishments that prepare and serve USDA meat and poultry products containing 120 PPM nitrite level, 3.5% brine concentration such as frankfurters.
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When Is the Person in Charge in Compliance with the Certified In Food Protection Management Requirement in 105 CMR 590.003(A)(2)?

A PIC is in compliance with food protection management certification requirements if they can provide a certificate of passing a recognized test that is part of an accredited program recognized by the Department of Public Health. The certificate must be prominently posted in the food establishment next to the food establishment permit. Attached is a list of the most recently accredited exam development organizations and tests recognized by the Department. Although training is not a state requirement, recommendations for training are available in the Department's Guideline for Food Protection Management Training and Testing.

If a PIC fails to pass a food protection management certification exam twice after having participated in a training program, the permit holder may request a variance provided the food establishment is in full compliance with 105 CMR 590.000.

If the PIC certified in food protection management leaves or is terminated, the permit holder must notify the board of health and has up to 60 days to designate a replacement.

Item # 1 – Food Protection Management should be debited under 590.003(B) Demonstration of Knowledge if at least one PIC is not certified in accordance with 590.003(A)(2).

What if the Certified PIC has a Certificate, But Does Not Appear to be Knowledgeable in Safe Food Handling Practices?

A certificate implies that the person is able to demonstrate a minimum proficiency in the prevention of foodborne illness. More important, they must be able to apply that knowledge in the day-to-day operations of the food establishment at which they are employed. Item #1, under section 590.003(B), may also be debited if the PIC is certified, but cannot explain the public health rationale or appropriate corrective actions for violated provisions relating to major risk factors and major interventions (red items 1-22) which have been noted on the inspection report form by the board of health. An order for correction for training may be issued by the board of health in accordance with 105 CMR 590.013(F).

What if the Certified PIC is Knowledgeable of the Public Health Rationale and Appropriate Corrective Actions for Violations Noted Relating to Risk Factors and Interventions?

If serious violations exist and the PIC is knowledgeable, the board of health should consider debiting Item #1 under section 2-103.11 Person in Charge-Duties. This section should only be debited when knowledge is not an issue and the same provision(s) relating to a risk factor or major intervention is violated during a re-inspection or subsequent routine inspection.