

STATE OF CONNECTICUT

DEPARTMENT OF PUBLIC HEALTH

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Environmental Health Section

Circular Letter EHDW #2023-02

Date: February 15, 2023

To: Directors of Health and Chief Sanitarians
Connecticut Franchisee Association

From: Lori Mathieu, Branch Chief, Environmental Health & Drinking Water Branch *Lori J. Mathieu*

Re: Guidance for food establishment inspections during non-peak hours

Regulations of the State of Connecticut allow for food service establishments to have an alternative person in charge under specific circumstances. The peak hours of operations and the food preparation processes can vary for food service establishments. The attached guidance is for local health to use when conducting food safety inspections during non-peak hours of operation. The intent is to address situations when a certified food protection manager is not present.

If you have any questions, please contact Cindy Costa at Cynthia.Costa@ct.gov.

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Guidance for Local Health Food Inspectors for Evaluating CFPM Requirement During Non-peak Hours

Regulations of the State of Connecticut allow for food service establishments to have an alternative person in charge (see Regulations below) under specific circumstances. The peak hours of operations and the food preparation processes can vary for food service establishments. This guidance is for local health to use when conducting food safety inspections during non-peak hours of operation. The intent is to address situations when a certified food protection manager is not present.

Overview

All Class 2, 3, and 4 food establishments shall have a person in charge who is a certified food protection manager (CFPM) onsite during hours of operation. However, under certain circumstances, they may be allowed to have an alternate person in charge instead of a CFPM. This alternate person in charge is not required to have passed an approved exam and have a certification, as defined in §19a-36h-4(b) above, but they must be able to demonstrate the same level of knowledge as the CFPM.

Class 2, 3, and 4 food establishments may have an alternate person in charge under the following conditions:

- Only during “non-peak hours of operation,” which are determined on a case-by-case basis depending on the food establishment; some examples are late night/early morning when only the drive-through is open or mid-afternoon between lunch and dinner; this time may vary depending on the day/time of year and is best determined by the local health official consulting with the operator of the food establishment;
- only one or two employees are on the premises, which reflects the time being deemed “non-peak hours of operation;”
- only limited or no food preparation is taking place; the term “limited” is to be evaluated on a case-by-case basis depending on the food establishment; some examples are dispensing of beverages (hot or cold) only and reheating prepared, packaged foods; and
- the required form which designates the alternate person in charge has been completed.

Role for Local Health Departments/Districts

When a certified food inspector conducts an inspection at a Class 2, 3 or 4 food establishment and there is no CFPM onsite, they should determine if there is an alternate person in charge. If there is, they should evaluate the circumstances as they relate to the above-mentioned conditions and decide if compliance is achieved by having a designated alternate person in charge instead of a CFPM. Outside of any enforcement inspection, the local health department may wish to discuss this allowance with the food establishments under their jurisdiction and come to an agreement on when the utilization of this allowance will be considered compliant with the regulatory language. It is important that local health departments work with the food service establishments to determine the non-peak hours and what is considered adequate coverage by an alternate person in charge.

Regulatory References:

(NEW) Sec. 19a-36h-1. Definitions. As used in Sections 19a-36h-1 to 19a-36h-7, inclusive, of the Regulations of Connecticut State Agencies:

- (1) "Alternate person in charge" means the person, designated by the owner or manager of the food establishment, to be in charge of the food establishment when the certified food protection manager cannot be present;
- (2) "Certified food protection manager" has the same meaning as in section 19a-36g of the Connecticut General Statutes;
- (15) "Person in charge" has the same meaning as in section 1.201.10 of the food code;

(NEW) Sec. 19a-36h-4. Certified food protection manager and alternate person in charge.

(a) Each Class 1, 2, 3, and 4 food establishment shall have a person in charge who meets the requirements of section 2-102.11 of the food code, who is on-site at the food establishment at all times the establishment is operating.

(b) At all times, a class 2, 3 and 4 food establishment is operating, the person in charge shall be a certified food protection manager, except as permitted by subsection (c) of this section, who shall:

- (1) Have obtained certification as required pursuant to section 19a-36i of the Connecticut General Statutes;
- (2) Maintain such certification on file at the food establishment and provide such certification to the food inspector upon request; and
- (3) Be a full-time employee, and assigned as the certified food protection manager to only one food establishment.

(c) The owner or manager of each class 2, 3 and 4 food establishments shall appoint an alternate person to be in charge, when the person in charge cannot be present. The alternate person in charge shall only be utilized during non-peak hours of operation, such as an overnight shift in which no more than two employees are on-site, and there is limited or no food preparation taking place. Such appointment shall be in writing on a form prescribed by the commissioner. The alternate person in charge shall:

- (1) Demonstrate the same knowledge as a certified food protection manager and carry out the responsibilities as specified in subsection (d) of section 19a-36i of the Connecticut General Statutes; and
- (2) Upon request of a food inspector at the food establishment, demonstrate to the food inspector, by a means according to section 2-102.11(B) or (C) of the food code the knowledge required under section 2-102.11(C)(1) to (17), inclusive, of the food code.

(d) The food inspector shall consider noncompliance with subsection (c) of this section a priority foundation item and shall cite such finding on the food inspection report form.