

SUMMARY OF CHANGES TO TFER

PURPOSE & DEFINITIONS

General:

- Changed Chapter citations from §229 to §228.
- Changed format of definitions to reflect current rulemaking standards
- Updated agency information
- Updated definitions required by State statutes
- As per FDA, eliminated references to PHFs and included Time/Temp Control for Food Safety (TCS) where applicable.
- Transition to Priority Item Violation and Priority Foundation Violation from Critical Violation. All terms will appear together.
- Transition from Non-Critical Violation to Core Item Violation. All terms will appear together
- New term "Conditional Employee" added

Subchapter A. General Provisions

§228.1 Purpose.

Changed purpose to include reference to State statutes and FDA.

§228.2 Definitions.

- (1) Added FDA definition of “Accredited program”
- (9) Added definition of “Balut”
- (10) Added definition of “Bare hand contact”
- (11), (12) & (13) Separated definitions of different Bed and Breakfast types.
- (17) Added Definition “Central Preparation Facility”

Eliminated definition of child care center.

Deleted definition of “Cottage food”.

(29) Added definition of “Controlled atmosphere packaging”.

(30) Added definition of “Cook chill packaging”.

(31) Added Definition for “Core Items”

(36) Changed definition of “Cut leafy greens” to include "this does not include the harvest cut. See (63) – definition of “Leafy greens”.

As per FDA deleted definition of “Enterohemorrhagic *Escherichia coli*.”

(49) Changed the definition of Event to include the terms: civic, political, public or educational and changed wording to include “would” grant permission to clarify the term events.

Eliminated the definition “farmer’s market”.

(58) Amended the definition of food establishment to include micro-markets. (See definition (129) referring to vending machines.

(60)(a) Changed definitions of food establishment to include terms: location, machine, micro-market

(65) Changed the definition of “Handwashing sink” to limit use for handwashing only.

(78) Added definition for “License”.

(79) Added definition for “License holder”.

(81) Added definition for “*Listeria monocytogenes*”.

(83) Changed definition of “Meat” to remove reference to “wild game animals and to include reference to definition of “game animals”.

(86) Added definition for “Mobile Food Unit”

(88) Included definition of Non-Time/Temperature control for safety food (NTCS)

(96) Added PIC to definition of “Person in charge”.

(100) Added definition of “Plumbing code”

Eliminated definition of “Potentially hazardous foods”.

(107) Added definition of “Priority item”

- (108) Added definition for “Priority Foundation Item”
- (109) Added a definition of “Psychrotrophic organisms”.
- (111) Added is readily movable by one or two people and this type of mobile unit requires the support of central preparation facility” for “pushcart”.
- (118) Added Definition for “Re-Service”
- (123) Included roadside food vendor as a mobile food establishment.
- (127) Changed definition of “Service animal” to ADA definition.
- (128) Added definition for “Servicing Area”
- (132) Added acronym “STEC”
- (138) Added a definition of “Sous vide packaging”.
- (139) Added a definition of “Specialized processing method”.
- (143) Added Definition of Time/ Temperature control.
- (146) Added definition of “Vacuum packaging”.
- (148) Changed definition of “Vending machine” and exclude vending machines with NTCS and pre-packaged NTCS foods.

Subchapter B - Management and Personnel

§228.33 Certified Food Protection Manager

- Added new requirements for Certified Food Protection Manager that requires a CFM on site for each licensed establishment.
- Added a new requirement that all food employees shall successfully complete a food handler training course, accredited by the department, within 60 days of employment.

§228.36 Responsibilities and Reporting Symptoms and Diagnosis

- This section was significantly revised to reflect the requirements for Conditions of Exclusions and Restrictions in accordance with the 2013 FDA Model Food Code by grouping together are responsibilities and requirements.

- Responsibility of Permit Holder, Person in Charge, and Conditional Employees now in 6 diagnosed illnesses. Norovirus, Hepatitis A, Shigella, STEC, and Salmonella typhi, now includes nontyphoidal Salmonella.

§228.37 Conditions of Exclusions and Restrictions

- This section was significantly revised to reflect the requirements for Conditions of Exclusions and Restrictions in accordance with the 2013 FDA Model Food Code.

§228.38 Managing and Exclusions and Restrictions

- This section was significantly revised to reflect the requirements for Managing and Exclusions and Restrictions in accordance with the 2013 FDA Model Food Code.

§228.39 Hands and Arms

- Provision added for the use of a disposable paper towel or similar clean barrier when touching surfaces such as manually operated faucets.
- Hand antiseptics must now meet specific requirement for use.

§228.46 Contaminations Events

- Added new Section “Contaminations Events” for the clean-up of vomit and diarrheal events in a food establishment.

Subchapter C - Food

§228.64 Original Container and Records

- Shellstock tags must now be labeled with date the last shellstock from the container was served and maintain 90 days from that date.

§228.65 Preventing contamination by employees

- Added the requirement that the permit holder must obtain prior approval from the regulatory authority before conducting bare hand contact activities with ready-to-eat foods.

§228.66 Preventing contamination from food and ingredients

- Frozen, commercially processed and packaged raw animal foods may now be stored or displayed with or above frozen, commercially processed and packaged ready-to-eat food.

§228.68 Preventing contamination from equipment, utensils.

- Single use disposable sanitizer wipes may now be used if done in accordance with EPA approved manufacturer's label use instructions.
- Take-home food establishment containers may now be reused if they are constructed for reuse, provided by the food establishment, returned to the food establishment after use, visually inspected by the food establishment before reuse and properly washed, rinsed, and sanitized before refilling.
- Take home containers for beverages may be refilled if it is a non-TCS food, the container is durable for cleaning at home or in food establishment, and is filled by the owner only if a system exists that allows a contamination free refill.

§228.71 Cooking

- Non-continuous cooking now only requires a re-heat, not to 165°F as previously required for all reheats, but only to the required cooking temperature for that particular food.

§228.73 Freezing

- Freezing for parasite destruction includes a new provision allowing storage for destruction at -20°F or below for a minimum of 24 hours.
- If specific fish, listed in (a)(2)(C) of this section, are raised and fed for service or sold as raw, raw-marinated, partially cooked, or marinated-partially cooked fish in ready-to-eat form a written agreement or statement from the supplier or aquaculturist shall be provided and maintained for 90 days.

§228.75 Temperature and time control

- More requirements were added for “time is a public health control” for cold foods. Cold foods may now be held without temperature control for up to 6 hours or up to 70°F if removed from refrigeration at 41°F, documented and monitored.

§228.77 Clostridium botulinum and Listeria monocytogenes controls

- This section was significantly revised to reflect the requirements for Clostridium botulinum and Listeria monocytogenes control in accordance with the 2013 FDA Model Food Code
- Reduced oxygen packaging (ROP) previously had one category (double barrier) and is now divided into three categories; double barrier, single barrier (cook-chill and sous vide) and 48 hour ROP. All categories would have previously required a HACCP plan but now 48 hour ROP does not.

§228.79 Labeling

- Added new requirements for food labeling for major food allergens to be in the ingredients unless stated in the common name.

Subchapter D. Equipment, Utensils, and Linens

§228.105 Accuracy of temperature measuring devices, food.

- Pressure measuring devices for mechanical warewashing equipment are now required to register in the range indicated on the manufacturer's data plate instead of previous being required to register in a range of 15-25.

§228.111 Equipment maintenance and operation.

- Added requirements for sanitizing chemicals, constituted on site at the food establishment, meeting the concentration requirements of this section.

§228.112 Utensils and temperature and pressure measuring devices.

- Food temperature measuring devices now must calibrated in accordance with manufacturer's specifications.

§228.125 Preventing Contamination

- Exposed, unused tableware must now be changed between customers or washed, rinsed and sanitized if used.

Subchapter E. Water, Plumbing, and Waste.

§228.146. Plumbing design, construction, and installation.

- Changed the requirement for plumbing systems from according to law to according to the plumbing code (see definitions section).

§228.147. Plumbing, numbers and capacities.

- Added a restriction that states toilets, urinals, and showers cannot be used as a service sink.

§228.149 Plumbing operations and maintenance.

- Mobile food establishment inlet tanks must now be labeled as "Potable Water".

Subchapter F. Physical Facilities.

§228.172 In a Temporary Food Establishment.

- New specification for floors of a temporary food establishment.

§228.174 Floors, walls and ceilings.

- Added words “anti-slip floor coverings” requirements in food establishments.

§228.175. Functionality.

- Added section for toilet room exceptions that do not require a tight-fitting and self-closing door if located outside a food establishment or such as a shopping mall.
- Outdoor servicing areas will now require overhead protection.

§228.176. Handwashing sinks.

- New provisions allowing for automatic hand washing facilities if approved by the regulatory authority.
- For mobile food operations and temporary food operations, if approved by the regulatory authority, when food exposure is limited, employees may use chemically treated towelettes for handwashing.
- Hand drying device that employs an air-knife system that delivers high velocity, pressurized air at ambient temperatures are now allowed.

§228.178 Lighting, intensity.

- Minimum light intensity requirements were changed for walk-in refrigeration units, dry storage areas, buffets, salad bars, reach-in and under counter refrigerators, area for ware washing, equipment storage and toilet rooms.

§228.187 Premises, building, systems, room, fixtures, equipment, devices, and materials.

- New language requiring plumbing fixtures such as handwashing sinks, toilets, and urinals to be cleaned as often as necessary to keep them clean.
- New language requiring the presence of insects, rodents, and other pests be controlled to eliminate their presence

Subchapter G. Poisonous or Toxic Materials.

§228.206 Chemicals.

- Chemicals used to wash or peel raw, whole vegetables must be approved additive and now include Ozone as an approved antimicrobial agent.

§228.210 First aid supplies. Availability.

- Added section requiring a first aid kit in a food establishments.

Subchapter H. Requirements Applicable to Certain Establishments.

§228.221. Mobile Food Requirements

- Added a paragraph requiring Mobile Food Units (MFU) to demonstrate they are readily moveable at license renewal every two years.
- During the initial permitting of a mobile food establishment they must provide documentation of a Certified Food Manager Certification, a central preparation facility certification, a copy of the last central preparation facility inspection report, a servicing area authorization, and a menu.
- MFU's must demonstrate equipment for cooling and heating food, and holding cold and hot food are sufficient in number and capacity to provide food temperatures.
- Mobile food establishment outlet tanks must now be labeled as "Waste Water".
- Toilet rooms shall be conveniently located and accessible to employees during all hours operation.

§228.222. Temporary Food Establishments.

- Foods that are not prepared on site or that require extensive preparation or cooking must be prepared at a licensed food establishment.
- Temporary establishments shall have at least one person on site that has an accredited food handler certification.

§228.223. Bed and Breakfast.

- Title of Section changed from Bed and Breakfast Extended Establishments to Bed and Breakfast.
- Added a Certified Food Manager requirement for Bed and Breakfast Limited Establishments.

§228.225 Micro Markets. - New Section

- New section added for Micro markets and Requirements.

Subchapter I. Compliance

§228.244. Facility and Operating Plans

- Added new paragraphs that deal with plan review and the context of plans and specifications. The wording in these sections were changed from shall to may.

§228.249 Inspection Frequency performance-based and risk based.

- Added new language changing to risk based inspection intervals to allow a risk-based inspection interval other than every 6 months as long as specific provisions are met.
- New language requiring the regulatory authority to periodically inspect temporary food establishments.

§228.251 Report of Findings.

- Critical items changed to “critical violations/priority items, priority foundation and /core/ non-critical items.”

§228.254 Priority Item/Priority Foundation Item/Critical violations, time frame for correction.

- New requirement for permit holder to correct violations within 72 hours for priority items.
- New requirement for permit holder to correct violations within 10 days for priority foundation items.

§228.255 Core Items violations, time frame for correction.

- New requirement for permit holder to correct violation within 90 days or the next inspections (whichever comes first).

§229.173. Heimlich maneuver Poster. - Section Removed. (TFER 2006)

Subchapter J. Private Water Systems - New Subchapter provisions about Private Water Wells.

- The Texas Food Establishment rules contain no provisions to ensure safe drinking water systems at Food Establishments utilizing private, non-regulated water wells.
- Food Establishments with private water wells not regulated by the Texas Commission on Environmental Quality may need to upgrade their systems to meet new water supply regulations. This may include installing an automatic chlorinator and periodically testing

the water quality (every months bacteriological testing estimated to be \$10/month/operating month and \$100/every three years for a chemical analysis).