

Summary of Changes TFER 2021

This Summary provides a synopsis of the textual changes from the 2015 Texas Food Establishment Rules (TFER) chapter to the 2021 TFER edition. The primary intent of this record is to capture the nature of the changes rather than to identify every word or editing change. ***This record should not be relied upon as a complete comparison that identifies each and every change. The TFER can be found in the current Texas Administrative Code (TAC), Title 25 Health Services, Part 1 Department of State Health Services, Chapter 228 Retail Food Establishment. ([TAC Weblink](#))***

General:

- The department has changed method of TFER development. **The department will adopt the 2017 FDA Food Code by reference instead of transcribing the Food Code into the Texas Administrative Code.**
- **TFER will consist of regulations that are specific to Texas.**
- Numerous editing changes were made throughout the document for internal consistency, clarification, and to correct errors in the 2015 TFER.
- Updated the federal and Texas Administrative Code (TAC) citations throughout rules.

FDA Food Code 2017 - Major Changes

- Purpose and Definitions, Added new term "Intact Meat"
- Amended paragraph 2-102.12(A) to state that the Person in Charge shall be the Certified Food Protection Manager.
- Amended to add new paragraph (I) to address additional duty requirement for the Person in Charge to ensure employees are routinely monitoring food temperatures during hot and cold holding.
- Revised the descriptors of illness caused by Salmonella Typhi or nontyphoidal Salmonella and amended to add the illness, Typhoid fever, to the descriptor for reportable diagnosis of illness diagnosed due to Salmonella Typhi so that it reads: "Typhoid fever (caused by Salmonella Typhi)".
- Added new Section 2-401.13 Use of Bandages, Finger Cots or Finger Stalls
- Amended new cooking time in seconds: 68C (155F) for 15 seconds to 17 seconds.
- Amended new cooking time in seconds: 74C (165F) or above from 15 seconds to <1 second (instantaneous).
- Added new section for Cleaning Agents and Sanitizers, Availability
- Amended to add new Public Health Rationale that supports the continuing of operations during an extended water or electrical outage if written operational plans have been approved by the regulatory authority.

For a complete list of changes from the FDA Food Code 2013 to 2017 please visit the FDA Food Code 2017: <https://www.fda.gov/food/fda-food-code/food-code-2017>

Texas Food Establishment Rules

Subchapter A. General Provisions

§228.1. Purpose and Regulations.

- Revised to address adopting of the **FDA Food Code 2017 and Supplement to the 2017 Food Code.**
- Revised to identify sections and definitions not adopted by rule.

§228.2. Definitions

- Revised **“(6) Central Preparation Facility”** to be more inclusive of types of facilities that can meet the regulatory requirement.
- Added Definition **“(8) Common carrier”**.
- Added Definition **“(9) Cottage food production operation”**.
- Revised **“(14) Food Establishment”**.
- Revised **“(21) Plumbing Code”** removed specific edition and replaced as amended to stay in line with newer plumbing regulations.
- Revised **“(25) Regulatory authority”** to include all varying types of health authorities.
- Revised **“(30) Vending Machine”** to be more inclusive of the diverse means of payment available.
- Removed Definitions:
 - “License” and “License Holder” – repetitive terms.
 - “Psychrotrophic Organisms”
 - Removal of pathogens: “Clostridium botulinum”, “Listeria monocytogenes”
 - “Specialized processing method” –language already in body of referenced Food Code.
 - “Color additive”, and “Food additive” – under “Additive” definition Food Code.
 - “Bare hand contact” – self descriptive term.
 - “Common dining area” – self descriptive term.
 - “Leafy green” – found in the definition of Cut Leafy Green in Food Code.
 - “Food Protection Manager Certification”
 - “Non-Time/temperature Control for Safety (TCS) food (NTCS)” – found in the definition of “Time/temperature Control for Safety (TCS)” Food in Food Code.

Subchapter B. Management and Personnel

§228.31 Certified Food Protection Manager and Food Handler Requirements.

- Amended subsection, **228.31(c)** lowering the number of days for new employees to complete an accredited food handler training course. Also, clarified Food Handler certification requirements at temporary events.
- Amended subsection removing the implementation date for Food Handler Certification.

§228.32. Reporting Symptoms and Diagnosis signage.

- Added section requiring sign or poster, notify food employees to report symptoms and diagnosis information about their health as it relates to diseases that are transmissible through food.

Subchapter C. Food

- Amended subchapter to address only state specific rules.
- Amended subchapter to updates to Texas specific citation references.
- Amended **228.62(b)** section on receiving eggs to specify chicken eggs.
- Amended **228.64 Donation of Foods**, language addressing school shared tables and clarification on hot foods being donated.

Subchapter D. Equipment, Utensils, and Linens

- Held in Reserve.

Subchapter E. Water, Plumbing, and Waste

- Nonpublic water system replaced with language in TFER 228.141, 30 TAC Chapter 290, Subchapter F (relating to Drinking Water Standards Governing Drinking Water Quality and Reporting Requirements for Public Water Systems), concerning transient noncommunity water systems.
- Mobile Food Unit - Fill hose and water holding tank labeling and testing, moved into Subchapter H.

Subchapter F. Physical Facilities

§228.171. Wall and Ceiling Coverings and Coatings.

- Amended language to be less restrictive than current rule. Would allow darker colored wall covering if allowed by regulatory agencies, and still allows the regulatory agencies the ability to set minimal standards for wall covering if necessary.

§228.172. Dogs in Outdoor Dining Areas of a Food Establishment.

- Due to **Senate Bill 476**, amended subsection by adding language allowing dogs in outdoor dining areas of food establishments and setting the minimum criteria specified by the statute.

Subchapter G. Poisonous or Toxic Materials

- No changes.

Subchapter H. Requirements Applicable to Certain Establishments

§228.221. Mobile Food Units.

- Amended paragraph **228.221(a)(1)** for clarity and repetitive language for readily moveable requirements already addressed in **228.221(a)(3)**.
- Re-organized bed and breakfast section for clarity.
- Updated Subchapter H citation referencing the Food Code.

Subchapter I. Compliance

- Removed Figure: **25 TAC, §228.251(f)**, Retail Food Establishment Inspection Report

§228.241. Facility and Operating Plans.

- Amended section **on when operating plans may be required by regulatory authority.**

§228.245. Competency of Inspectors and Access.

- Amended subparagraph **228.245(a)** with the correct citation to the Texas Department of Licensing and Regulation.
- Amended subparagraph **228.245(b)** legal terminology for refusal, notification of right to access, and final request for access.

§228.249. Inspection Frequency, Performance-based and Risk Based.

- Removed from TFER.

§228.251 (c) Refusal to sign acknowledgment

- Removed from TFER.

Subchapter J. Private Water Systems

- Subchapter repealed.