



# AUSTIN PUBLIC HEALTH

ENVIRONMENTAL HEALTH SERVICES DIVISION

1520 Rutherford Lane, Building 1, Suite 224

P. O. BOX 14529 Austin, TX 78714

512-978-0300 Email: [ehsd.service@austintexas.gov](mailto:ehsd.service@austintexas.gov)

<http://www.austintexas.gov/department/food-establishment-requirements>



## Important changes to the Texas Food Establishment Rules (TFER)

Austin Public Health would like to make you aware of some very important changes to the TFER that will affect your food establishment operations. The new TFER was formally adopted by the State of Texas and by Austin Public Health on October 11, 2015. Austin Public Health is currently using the new TFER regulations to evaluate compliance of food establishments in our jurisdiction. The new TFER is now based on the 2013 FDA Model Food Code. In order to assist you with the new requirements, we would like to provide you with a brief summary of some of the more important changes.

- Formerly Chapter 229, the new TFER is now Chapter 228
- As per the FDA Model Food Code, references to Potential Hazardous Foods (PHF) have been eliminated and replaced with Time/Temperature Control for Food Safety (TCS) where applicable. The determination of a TCS food now depends on the relationship between the water activity and pH of the product. Table A and B from the TFER are attached below.
- A copy of the new inspection form is also attached. You will notice that we will no longer use the terms "Critical" and "Non-critical" violations. We will now be evaluating 47 items rather than only 28 items.
- "Critical" violations will now be a Priority (P) or a Priority Foundation (Pf) violation. Priority violations will be worth 3 demerits, and Priority Foundation violations are now worth 2 demerits. "Non-critical" violations will now be Core violations and are worth 1 demerit.
- Priority violations are required to be corrected immediately or if allowable within 72 hours; Priority Foundation violations within 10 days; and Core items within 90 days or the next routine inspection.
- There is a new requirement that all Certified Food Manager cards must be posted in a conspicuous location. **NOTE: All establishments within Austin City Limits will be required to post a valid City of Austin food managers certificate.** The rule requires that they be posted in a place, ideally near the main entrance, highly visible to customers. You must also place, at a minimum, a sign in a conspicuous location letting your customers know that your inspection reports are available for review upon request. You may also post copies of inspection reports as an alternative. Again, the rule requires that they be posted in a place, ideally near the main entrance, highly visible to customers.
- There is also a new requirement for all employees that handle food products of any kind to successfully complete a Food Handler training course, accredited by the Texas Department of State Health Services (DSHS) or American National Standards Institute (ANSI), within 60 days of employment. This requirement became effective September 1, 2016. This certification is the responsibility of the employee to obtain. It is the responsibility of the food establishment operator to ensure all staff handling food has a current Food Handler certification. The certification cards do not have to be posted, but they do need to be available upon request.

- Non-typhoidal Salmonella has been added to the list of illnesses that need to be reported to our Department and requires exclusion of the diagnosed food worker from food related operations.
- Washing hands is required before donning gloves, but not in between changing gloves if the same task is being done. There has been no change to the requirement for food workers to wear gloves anytime they are handling ready-to-eat foods.
- Additional requirements were added for “Time as 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 with documented monitoring. A written HACCP shall be prepared in advanced, maintained in the food establishment and made available upon request.
- Non-continuous cooking now only requires a re-heat to the required cooking temperature for that particular food rather than 165°F as previously required for all re-heats. Proper cooling of cooked foods is still required. A written plan with prior approval is required.
- Food service workers are no longer allowed to touch any surface of the hand washing sink with their bare hands after hand washing. A barrier, such as a paper towel, must be used to turn off the faucet and touch the handle on the restroom door.
- A first aid kit is now required in all fixed retail food establishments. The first aid supplies are for the food employees’ use and shall be labeled as such and stored in a kit or a container that is located to prevent the contamination of food, equipment, utensils, and linens, and single-service and single-use articles. Please see the attached document.
- New requirements for the clean-up of vomit and diarrheal events in a food establishment. Please see the attached document.
- Single use disposable sanitizer wipes may now be used if done in accordance with EPA-approved manufacturer’s label use instructions. These may not be used in lieu of wash, rinse, and sanitizing.
- 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. 48-hour ROP doesn’t require a HACCP plan, but double and single barrier and ROP lasting longer than 48 hours would require a prior approved HACCP plan. Please see the attached document.
- Exposed, unused tableware must now be changed between customers or wash, rinsed, and sanitized if used. In other words, all tableware regardless if it was used or not, must be removed and replaced with clean, sanitized tableware.
- There is a new restriction that states toilets, urinals, and showers cannot be used as a service sink.
- Hand drying device that employs a system that delivers high velocity, pressurized air at ambient temperatures are now allowed. However, paper towels are still **REQUIRED** to open restroom doors.
- 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). Please see attached document.

Figure: 25 TAC §228.2(144)

Table A. Interaction of PH and Aw for control of spores in FOOD heat-treated to destroy vegetative cells and subsequently PACKAGED Aw Values pH: 4.6 or Less pH: > 4.6 – 5.6 pH: > 5.6 <0.92

A <sub>w</sub> Values	pH: 4.6 or Less	pH: > 4.6 – 5.6	pH: > 5.6
<0.92	NTCS FOOD*	NTCS FOOD	NTCS FOOD
>0.92 – 0.95	NTCS FOOD	NTCS FOOD	PA**
>0.95	NTCS FOOD	PA	PA

\* TCS FOOD means TIME/TEMPERATURE CONTROL FOR SAFETY (TCS) FOOD

\*\*PA means Product Assessment required

Table B. Interaction of PH and Aw for control of vegetative cells and spores in FOOD not heat-treated or heat-treated but not PACKAGED

A <sub>w</sub> Values	pH: <4.2	pH: 4.2 – 4.6	pH:> 4.6 – 5.0	pH: >5.0
<0.88	NTCS FOOD*	NTCS FOOD	NTCS FOOD	NTCS FOOD
0.88 – 0.90	NTCS FOOD	NTCS FOOD	NTCS FOOD	PA**
>0.90 – 0.92	NTCS FOOD	NTCS FOOD	PA	PA
>0.92	NTCS FOOD	PA	PA	PA

\* TCS FOOD means TIME/TEMPERATURE CONTROL FOR SAFETY (TCS) FOOD

\*\* PA means Product Assessment required





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## Subject: First AID KIT REQUIREMENTS FOR RETAIL FOOD ESTABLISHMENTS

Texas Food Establishment Rule §228.210 states that a first aid kit shall be provided in all fixed retail food establishments. §228.211 (1)-(2) further states that first aid supplies that are in a food establishment for the food employees' use shall be labeled as required and stored in a kit or a container that is located to prevent the contamination of food, equipment, utensils, and linens, and single-service and single-use articles.

The Texas Food Establishment Rules do not clarify what is to be included in the first aid kit, only that they have one. The U.S. Department of Labor Occupational Safety and Health Administration (OSHA) is the main federal agency charged with the enforcement of safety and health legislation. OSHA regulations regarding first aid kits are contained in the Code of Federal Regulations under section 29 CFR 1910.151 and in Appendix A. OSHA does not provide specifications for first aid kit contents per se but defines mandatory requirements for availability of kits on worksites. In Appendix A of the OSHA guidelines, American National Standards Institute (ANSI) is referenced as the originator of first aid kit specifications and minimum contents requirements. The New 2015 ANSI revision introduces two classes of first aid kits. For the purpose of retail food establishments, the Class A minimum fill requirements are recommended. American National Standard- Minimum Requirements for Workplace First Aid Kits and Supplies, ANSI/ISEA Z308.1-2015 states that in order to be ANSI compliant, First Aid Kits must contain the following supplies:

## 2015 ANSI Class A Minimum Fill Requirements

Quantity	Item	Minimum Size or Volume
16	Adhesive Bandages	1" x 3"
1	Adhesive Tape	2.5 yd
10	Antibiotic Treatment	.14 fl. OZ (0.5g) applications
10	Antiseptic	.14 fl. OZ (0.5g) applications
1	Breathing Barrier	
1	Burn Dressing	4" x 4"
10	Burn Treatment	1/32 oz. (0.9g) applications
1	Cold Pack	4" x 5"
2	Eye Coverings	
1	Eye Wash	1oz.
1	First Aid Guide	
6	Hand Sanitizer	
4	Medical Exam Gloves	
1	Roller Bandage	2" x 4" yd
1	Scissors	
2	Sterile Pads	3" x 3"
2	Trauma Pads	5" x 9"
1	Triangular Bandages	40" x 40" x 56"

## Clean-up Procedures for Vomit/Fecal Events

The 2015 Texas Food Establishment Rules require that all food establishments have a procedure for responding to vomiting and diarrheal events. This requirement is specified in §228.45 Contamination Events and states:

A food establishment shall have written procedures for employees to follow when responding to vomiting or diarrheal events that involve the discharge of vomitus or fecal matter onto surfaces in the food establishment the procedures shall address the specific actions employees must take to minimize the spread of contamination and the exposure of employees, consumers, food, and surfaces to vomitus or fecal matter.

**Note: Effective cleaning of vomitus and/or fecal matter accidents in a food service establishment should be handled differently from routine cleaning/sanitizing procedures.**

Vomiting and diarrheal accidents should be cleaned up using the following recommended steps:

- Minimize the risk of disease transmission through the prompt removal of ill employees, customers and others from areas of food preparations, service, and storage.
- Exclude all employees that are experiencing symptoms of vomiting and/or diarrhea and follow the employee health policy of when to restrict/exclude an ill food employee.
- Segregate the area, and cover the vomit/fecal matter with single use disposable towels to prevent aerosolization.
- Mix a chlorine bleach solution that is stronger than the chlorine solution used for general sanitizing, the Center for Disease Control and Prevention recommends 1000-5000ppm or 5-25 tablespoons of regular household bleach (5.25%) per gallon of water.
- Note: Some quaternary ammonia sanitizers are effective for Norovirus (see the reference section of this document for a link to find a list of EPA listed sanitizers).
- Wear disposable gloves during cleaning. To prevent the spread of disease, it is highly recommended that a disposable mask and/or cover gown, or apron, and shoe covers be worn when cleaning liquid matter.
- Ensure the affected area is adequately ventilated (the chlorine bleach solution can become an irritant when inhaled for some individuals and can become an irritant on skin as well).
- Soak/wipe up the vomit and/or fecal matter with towels and dispose of them into a plastic garbage bag.
- Apply the bleach solution onto the contaminated surface area and allow it to remain wet on the affected surface area for at least 10 minutes. Also sanitize the surrounding area in a **25 foot radius**, including food contact surfaces. (When someone has a vomiting or diarrheal accident, germs such as Norovirus can spread by air and contaminate surfaces and food as far as **25 feet away**)
- Allow the area to air dry. Dispose of any remaining sanitizer solution once the accident has been cleaned up.
- Discard all gloves, masks, and cover gowns (or aprons) in a plastic bag and dispose of the bag immediately.
- Take measures to dispose of and/or clean and disinfect the tools and equipment used to clean up the vomit and/or fecal matter.
- **PROPERLY WASH YOUR HANDS – AND IF POSSIBLE TAKE A SHOWER AND CHANGE YOUR CLOTHES.**
- Discard any food that may have been exposed in the affected area.
- An incident report of actions that were taken as a result of an individual being sick should be completed. Include information such as: the location of the incident, the time and date, and procedures of the cleanup process. Keep the information on file by the business for at least a year. NOTE: the information may be useful for an investigation conducted by the Environmental Health Department.

References:

**FDA 2013 Food Code**

<http://www.fda.gov/Food/GuidanceRegulation/RetailFoodProtection/FoodCode/ucm374275.htm>

**Center for Disease Control: Preventing Norovirus Infection**

<http://www.cdc.gov/norovirus/preventing-infection.html>

<http://www.cdc.gov/norovirus/downloads/foodhandlers.pdf>

**Environmental Protection Agency – Selected EPA-Registered Disinfectants**

<http://www.epa.gov/oppad001/chemregindex.htm>

**A MORE COMPREHENSIVE LIST OF CHANGES TO THE TEXAS FOOD ESTABLISHMENT RULES CAN BE FOUND AT THE FOLLOWING:**

<http://www.dshs.texas.gov/WorkArea/linkit.aspx?LinkIdentifier=id&ItemID=8590002325>

# Guidance Document for Refrigerated Foods In Reduced Oxygen Packaging

## INTRODUCTION

While reduced oxygen packaging may extend the shelf life of certain foods, the process can also create a serious public health hazard if the proper control parameters are not followed. These control parameters must include recognized barriers that prevent the growth of infectious or toxigenic microorganisms combined with proper temperature control of the product at all times and carefully monitored rotation of the processed food. Retail establishments should only engage in this practice after a thorough evaluation of the potential hazards has resulted in the establishment having adequate safeguards against food contamination.

We must recognize that products packaged in a reduced oxygen package atmosphere may pose a serious public health threat even though the food may not exhibit the usual organoleptic (taste/smell) or visual signs relied on by consumers to warn them that the food is no longer edible.

## DEFINITIONS

**Acceptable product list** – A list of foods, which because of their characteristics will present a barrier to the growth of *Clostridium Botulinum*.

**Barrier** – A safety factor of a physical, biological or chemical nature which inhibits or minimizes the growth of microorganisms including those which may be infectious or toxic.

**Critical Control Point** – A point or procedure in a specific food system where loss of control may result in an unacceptable health risk.

**Hazard Analysis Critical Control Point (HACCP) Program** – A written document that delineates the formal procedures for following the Hazard Analysis Critical Control Point principles developed by The National Advisory Committee on Microbiological Criteria for Foods.

**Lot** – A unique run of processed or packaged product with a specifically designated date and processing operation.

**Processing** – To manufacture, compound, intermix or prepare food products for sale or for customer service.

**Retail Food Establishment** – A facility where food products are processed, prepared, stored or handled, and then sold or offered for human consumption at a retail level with such sales being made primarily to the consumer.

**Reduced Oxygen Packaging** - The reduction of the amount of oxygen in a package by removing oxygen, displacing oxygen and replacing it with another gas or combination of gases, or otherwise controlling the oxygen content to a level below that normally found in the atmosphere (approximately 21% at sea level). It is a process that involves a food for which the hazards of *Clostridium Botulinum* or *Listeria monocytogenes* require control in the final packaged form. ROP includes cook chill packaging, controlled atmosphere packaging, modified atmosphere packaging, Sous vide packaging, and vacuum packaging.

## TYPES OF REDUCED OXYGEN PACKAGING

**Cook Chill** - A method of packaging food in which cooked food is hot filled into impermeable bags which have the air expelled and are then sealed or crimped closed. Bagged food is rapidly chilled and refrigerated at temperatures that inhibit the growth of psychotropic pathogens.

**Vacuum –Packaging** - A method of packaging food in which air is removed from a package of food and the package is hermetically sealed so that a vacuum remains inside the package.

**Sous Vide** - A method of packaging food in which raw or partially cooked food is vacuum packaged in an impermeable bag, cooked in the bag, rapidly chilled, and refrigerated at temperatures that inhibit the growth of psychotropic pathogens.

**Modified Atmosphere Packaging (MAP)** - A method of packaging food in which the atmosphere of a package of food is modified so that its composition is different from air but the atmosphere may change over time due to the permeability of the packaging material or the respiration of the food. Modified atmosphere packaging includes: reduction in the proportion of oxygen, total replacement of oxygen, or an increase in the proportion of other gases such as carbon dioxide or nitrogen.

**Controlled Atmosphere Packaging (CAP)** - A method of packaging food in which the atmosphere of a package of food is modified such that until the package is opened, its composition is different from air, and continuous control of that atmosphere is maintained, such as by using oxygen scavengers or a combination of total replacement of oxygen, non-respiring food, and impermeable packaging material.

## REDUCED OXYGEN PACKAGING BARRIERS

The primary reduced oxygen packaging barrier is Refrigeration as specified in section §228.75 (a) and (b). All Time/temperature control for safety food requires refrigeration. Few treatments reliably destroy all pathogenic microorganisms in food except heat sterilization and irradiation. Other inhibitory factors used in combination with refrigeration can be equally effective at preventing spoilage and growth of foodborne illness pathogens.

Secondary barriers with refrigeration at  $\leq 41^{\circ}\text{F}$ :

- pH or acidity  $\leq 4.6$ 
  - Natural
  - Acidification
  - Fermentation
- Water activity ( $a_w$ )  $\leq 0.91$ 
  - Dried products (jerky, dry fermented sausage)
  - High salt or sugar concentration
- Cured meat or poultry products
  - Salt added at 3.5%
  - Nitrite (inhibits spore germination and toxin production by *Clostridium Botulinum*)

## ROP CRITICAL LIMITS

(No variance required but HACCP plan is required)

41°F with secondary barrier = 30 day shelf life

34°F No secondary barrier = 30 day shelf life or

41°F No secondary barrier = 7 day shelf life

\*Continuous electronic monitoring of temperature

## REGULATORY AUTHORITY APPROVAL

An approved variance may be obtained from the regulatory authority before packaging time/temperature control for safety (TCS) food using a reduced oxygen packaging method except where the growth of and toxin formation by Clostridium Botulinum and the growth of Listeria monocytogenes are controlled. If the establishment is packaging time/temperature controlled for safety food using a reduced oxygen packaging method and controlling the growth and toxin formation of Clostridium Botulinum and Listeria monocytogenes, the establishment shall implement an approved HACCP Plan.

**Exemption:** A HACCP plan is not required when a food establishment uses a reduced oxygen packaging method to package TCS food that is always labeled with the production time and date, held at 41°F or less during refrigerated storage and removed from its package in the food establishment within 48 hours after packaging.

## COOK CHILL OR SOUS VIDE

A food establishment that packages TCS food using cook-chill or sous vide process shall provide to the regulatory authority prior to implementation, a HACCP plan. They must also ensure the food is:

- Prepared and consumed on the premises, or prepared and consumed off the premises but within the same business entity with no distribution or sale of the packaged product to another business entity or the consumer;
- Cooked to heat all parts of the food to a temperature as required
- Protected from contamination before and after cooking
- Placed in package with oxygen barrier and sealed before cooking, or
- Placed in package and sealed immediately after cooking and before reaching an internal temperature below 57 degrees Celsius (135 degrees Fahrenheit);
- Cooled to 5 degrees Celsius (41 degrees Fahrenheit) in the sealed package or bag
- Cooled to 1°C (34°F) within 48 hours of reaching 5°C (41°F) and held at that temperature until consumed or discarded within 30 days after the date of packaging;
- Held at 5°C (41°F) or less for no more than 7 days, at which time the food must be consumed or discarded; or
- Held frozen with no shelf life restriction while frozen until consumed or used.
- Held in a refrigeration unit that is equipped with an electronic system that continuously monitors time and temperature and is visually examined for proper operation twice daily,
- If transported off-site to a satellite location of the same business entity, equipped with verifiable electronic monitoring devices to ensure that times and temperatures are monitored during transportation, and
- Labeled with the product name and the date packaged

All records must be maintained to confirm that cooling and cold holding refrigeration time/temperature parameters are being met. Records must be made available to the regulatory authority and held for at least 6 months. The establishment must also implement the written operational procedures and a training program.

## CHEESE

A food establishment that packages cheese using a ROP method shall:

- Limit the cheeses packaged to those that are commercially manufactured in a food processing plant with no ingredients added in the food establishment and that meet the Standards of Identity as specified in 21 CFR 133.150 Hard cheeses, 21 CFR 133.169 Pasteurized process cheese or 21 CFR 133.187 Semisoft cheeses;
- Have a HACCP plan
- Labels the package on the principal display panel with a “use by” date that does not exceed 30 days from its packaging or the original manufacturer’s “sell by” or “use by” date, whichever occurs first; and
- Discards the reduced oxygen packaging cheese if it is not sold for off-premises consumption or consumed within 30 calendar days of its packaging.



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## Variance Request Procedure

### What is a variance?

A variance is a written document issued by the Regulatory Authority (RA) that authorizes a modification or waiver of one or more of the requirements of the Texas Food Establishment Rules (TFER). A variance may be granted by the regulatory authority if in the opinion of the regulatory authority a health hazard or nuisance will not result from the variance. If a variance is granted, the regulatory authority shall retain the required documents for the food establishment.

### When is a variance request required?

A variance request is required to be submitted when a food establishment would like to make a modification or waiver to the requirements of the TFER. In addition, **Section 228.76 requires a food establishment to obtain a variance for specialized processing methods from the department as specified in 228.243 (a) and (b) of this title before:**

- *Smoking food as a method of food preservation rather than as a method of flavor enhancement;*
- *Curing food;*
- *Using food additives or adding components such as vinegar: to preserve/render non-time/temperature control for safety food;*
- *Packaging time/temperature control for safety food using Reduced Oxygen Packaging method except where the growth of Clostridium Botulinum and Listeria Monocytogenes are controlled;*
- *Operating a molluscan shellfish life-support system display tank used to store and display shellfish that are offered for human consumption;*
- *Custom processing animals that are for personal use as food and not for sale or service in a food establishment;*
- *Preparing food by another method that is determined by the regulatory authority to require a variance; or*
- *Sprouting seeds (such as alfalfa or wheat grass) or beans in a retail food establishment.*

## Requirements for submitting a variance request?

In order to be considered for a variance to these rules, the establishment must submit a statement of the **proposed variance** that includes the section of the rules related to the modification, **rationale** of how the public health hazard will be addressed, and a **HACCP plan** if required by these rules. These requirements are also stated below. Austin Public Health will review all the information submitted and retain a copy of the documents on file for the food establishment. **A copy of the APPROVED variance/HACCP plan MUST be maintained on site at the food establishment AT ALL TIMES and be presented to the inspector upon request.**

1. A statement of the proposed variance of the rule requirement citing relevant rule section numbers. Explain what you would like to do and the section of the law it affects.
2. An analysis of the rationale for how the potential public health hazards and nuisances addressed by the relevant rule sections will be alternatively addressed by the proposal. Provide information regarding your new process and how it will still meet the intent of these regulations.
3. A HACCP Plan if required as specified in TFER Section 228.244(c) that includes the contents of the HACCP plan. The details regarding the contents for the HACCP plan and specifications can be found in TFER Section 228.244(d). Please submit a copy of your food establishment's HACCP Plan along with your "variance request" if you are required to have a plan based on these rules.

A "variance request" submitted to Austin Public Health that lacks "**part or all**" of the information stated above will not be approved. Please feel free to submit documents and photographs that will help our department verify that a health hazard or nuisance will not result from the variance. Austin Public Health will provide the submitter with the department's decision regarding the waiver request.

The TFER can be found at <http://www.dshs.state.tx.us/foodestablishments> or call the Austin Public Health for additional information. If you are interested in submitting a variance request, please return all the required information to:

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### WALK-INS

1520 Rutherford Lane, Building 1, Suite 224  
Austin, Texas 78754

**Office Use Only**

Date Received \_\_\_\_\_ Amt Paid \$ \_\_\_\_\_ Check # \_\_\_\_\_ Receipt# \_\_\_\_\_  
Received By \_\_\_\_\_ Parent \_\_\_\_\_ ROW \_\_\_\_\_



**AUSTIN/TRAVIS COUNTY HEALTH AND HUMAN SERVICES DEPARTMENT  
ENVIRONMENTAL HEALTH SERVICES DIVISION  
P.O. Box 142529 Austin, TX 78714**



Phone: (512) 978-0300 Email: [EHSD.Service@austintexas.gov](mailto:EHSD.Service@austintexas.gov)

**VARIANCE REQUEST AND/OR HACCP APPLICATION**

Name of Food Enterprise or Pool/Spa/PIWFF: \_\_\_\_\_

Address of Facility: \_\_\_\_\_  
Street City State Zip Code

Name of Owner: \_\_\_\_\_

Contact Phone #: \_\_\_\_\_

Email Address: \_\_\_\_\_

REVIEW FEE (check one)	CITY OF AUSTIN / ILA	TRAVIS COUNTY
<input type="checkbox"/> Food Enterprise HACCP (may also include a Variance)	\$263	No Fee
<input type="checkbox"/> Food Variance Request (when no HACCP required)	\$263	No Fee
<input type="checkbox"/> Pool/Spa/PIWFF Variance Request	\$263	No Fee

- Submit a **Food HACCP Plan** and/or a **Food Variance Request** or a **Pool/Spa/PIWFF Variance Request**, along with supportive documentation and fee to this Department for review and approval prior to implementing or utilizing a condition or process which requires a 1)Food HACCP Plan, 2)Food Variance Request or 3)Pool/Spa/PIWFF Variance Request.
- Supportive documentation for a Variance Request shall include (not necessarily limited to):
  - Cover letter providing a name and physical address of the facility(s)
  - Single point of contact information
  - Applicable Food Enterprise TFER Code section number(s) or Pool/Spa/PIWFF TAC Chapter 265 Code section numbers(s)
  - Rationale statement of how the potential health hazard(s) addressed by the relevant code section(s) is to be addressed by the proposed variance.
- Approved Variance Requests and Food HACCP Plans are final and no modifications may occur without prior review/approval by this Department.
- Modifications to an approved Variance Request or Food HACCP Plan are subject to additional Review Fees.
- Failure to provide all required supportive documentation may result in the need for additional Review Fees. An additional Review Fee shall be assessed for the third re-submittal and for each re-submittal thereafter.
- Food HACCP Plans and all Variance Requests may be sent to this office via:
  - Walk-in @ 1520 Rutherford Lane, Building 1, Suite 224
  - Email to [ECHU.Service@austintexas.gov](mailto:ECHU.Service@austintexas.gov)
  - USPS mail to City of Austin-EHSD, P.O. Box 142529, Austin, TX 78714 (all other couriers may deliver to physical address @ 1520 Rutherford Lane, Suite 224, Austin, TX 78754)

Signature of Applicant

Print Name

Date

## Subchapter J. Private Water Systems.

### §228.271. Water Supply and Pressure.

Food Service Establishments having water supplies that do not meet the definition of a public water system as defined by Title 30 of the Texas Administrative Code Chapter (30 TAC) §290.38(66) or that are not regulated by the Texas Commission on Environmental Quality (TCEQ) shall comply with the requirements of this subchapter.

(1) Water supply. An adequate supply of water shall be available at all times in each food service facility, with a minimum of 24 Gallons/Person/Day (GPD) provided.

(2) Water pressure. The system shall be designed to maintain a minimum pressure of 35 pounds per square inch (psi) and shall be designed to provide the maximum daily demand for the various types of facilities listed in 30 TAC §290.45(d)(1)(A). When the system is intended to provide firefighting capability, it shall also be designed to maintain a minimum pressure of 20 psi under combined fire and drinking water flow conditions. Minimum distribution pressure shall not be less than 20 psi at any time.

### §228.272. Water Quality.

(a) Bacteriological properties. Each food establishment that uses a private water system shall have its water sampled and tested for total coliform, fecal coliform, E. coli, or other fecal indicator organisms as specified in this subsection.

(1) A food establishment shall have its water sampled and tested and must obtain negative test results one month before commencing operation.

(2) A food establishment shall have its water sampled and tested every six months and must obtain negative test results.

(3) If a test result is positive, the food establishment shall remediate the water system and have its water sampled and tested every month until test results are negative for 12 consecutive months. After achieving negative test results for 12 consecutive months, the facility shall resume water testing every six months as specified in paragraph (2) of this subsection.

(4) Testing for microbial contaminants shall be performed at an accredited laboratory certified in accordance with 30 TAC Chapter 25 Environmental Testing Laboratory Accreditation And Certification.

(5) If a routine distribution coliform sample is positive for E. coli, then the facility shall post a written boil water notification. The notification shall state, "To ensure destruction of all harmful bacteria and other microbes, water for drinking, cooking, and ice making must be boiled and cooled before consumption or use in preparing food or cleaning food contact surfaces and equipment. The water shall be brought to a vigorous rolling boil and then boiled for least two minutes. Instead of boiling water, the food establishment may use purchased bottled water, water obtained from some other suitable source, or ice obtained from an approved source."

(6) The boil water notification shall remain in effect until a repeat distribution coliform sample is coliform-negative.

(7) Records of all bacteriological tests and of any boil water notification shall be kept on site.

(b) Chemical properties.

(1) Food service facilities shall submit a water sample obtained from the entry point to the distribution system to a laboratory for chemical analysis at least once every three years.

(2) The chemical analysis shall be for primary and secondary constituent levels.

(3) Maximum primary constituent levels are as described in the following table.

Figure: 25 TAC §228.272(b)(3)

(4) Maximum secondary constituent levels are as described in the following table.

Figure: 25 TAC §228.272(b)(4)

(5) Records of all chemical testing shall be kept on site.

(c) Minimum residual disinfectant concentrations and maximum residual disinfectant levels (MRDLs).

(1) The minimum residual disinfectant concentration in the water entering the distribution system and the water within the distribution system shall be 0.2 milligrams per liter (mg/L) free chlorine.

(2) The MRDL of free chlorine in the water within the distribution system shall be 4.0 mg/L based on a running annual average.

Figure: 25 TAC §228.272(b)(3)

<b>CONSTITUENT</b>	<b>LEVEL (mg/l except where otherwise stated)</b>
Antimony	0.006
Arsenic	0.010
Asbestos	7 million fibers/liter (longer than 10 µm)
Barium	2
Beryllium	0.004
Cadmium	0.005
Chromium	0.1
Cyanide	0.2 (as free Cyanide)
Fluoride	4.0
Mercury	0.002
Nitrate	10 (as Nitrogen)
Nitrite	1 (as Nitrogen)
Nitrate and Nitrite (Total)	10 (as Nitrogen)
Selenium	0.05
Thallium	0.002

Figure: 25 TAC §228.272(b)(4)

<b>CONSTITUENT</b>	<b>LEVEL (mg/l except where otherwise stated)</b>
Aluminum	0.05 to 0.2
Chloride	300
Color	15 color units
Copper	1.0
Corrosivity	Non-corrosive
Fluoride	2.0
Foaming agents	0.5
Hydrogen sulfide	0.05
Iron	0.3
Manganese	0.05
Odor	3 Threshold Odor Number
pH	>7.0
Silver	0.1
Sulfate	300
Total Dissolved Solids	1,000
Zinc	5.0

§228.273. Backflow Prevention. The plumbing system shall preclude backflow of a solid, liquid, or gas contaminant into the water supply system at each point of use, including on a hose bib, by:

(a) providing an air gap between the water supply inlet and the flood level rim of a plumbing fixture, equipment, or nonfood equipment that is at least twice the diameter of the water supply inlet and not less than 25 mm (1 inch); or

(b) installing an approved backflow prevention device that meets the American Society of Sanitary Engineering (ASSE) standards for construction, installation, maintenance, inspection, and testing for that specific application and type of device.

§228.274. Disinfection of New or Repaired Water System Facilities.

(a) When repairs are made to existing mains or when new main extensions are installed, they shall be disinfected using such amounts of chlorine compounds as to fill the repaired or new mains and appurtenances with water containing 50 mg/L chlorine.

(b) After the water containing this amount of chlorine, which is greater than that normally present in drinking water, has been in contact with the pipe and appurtenances for at least 24 hours, the main shall be flushed until the free chlorine or chloramine in the water within the new or repaired distribution system is less than 4.0 mg/L.

(c) A sample of water from the new or repaired main shall be submitted to a TCEQ Accredited laboratory for bacteriological examination so as to be assured that the disinfection procedure was effective.

(d) A supply of sodium hypochlorite or calcium hypochlorite disinfectant shall be kept on hand for use when making repairs and repairing line breaks.

§228.275. Flushing of Water System Mains. All dead-end mains should be flushed at monthly intervals or more frequently to maintain water quality.

§228.276. Collection System Location.

(a) No sanitary sewers or septic tanks shall be allowed within a distance of 150 feet of any well used for drinking water. No cesspool or septic tank open-jointed drain field shall be allowed within a distance of 150 feet of any well used for drinking water.

(b) Storm sewers located within specified distances for sanitary sewers shall be constructed so as to prevent leakage from them.

(c) Water lines and sanitary sewers shall be installed no closer to each other than nine feet.

§228.277. Well Logs.

Copies of well material setting data, geological log, sealing information (pressure cementing and surface protection), disinfection information, bacteriological sample results, and a chemical analysis report of a representative sample of water from the well shall be kept on file. A State of Texas Well Report must be filed with the Texas Department of Licensing and Regulation (TDLR) in accordance with Texas Occupational Code, Title 12. Practices and Trades Related to Water, Health, and Safety, Chapter 1901.251.

§228.278. Interconnection.

No physical connection between the distribution system of a food service facility water supply and that of any other water supply shall be permitted. Unless that water supply meets all applicable requirements of 30 TAC 290.