

Summary of Changes in WV 64CSR17 (Adoption of FDA 2013 Food Code)

As of July 1, 2019 the State of WV adopted the 2013 FDA Food Code with a few changes that are all addressed in state legislation (64CSR17). Since 2007, the state has been using the 2005 FDA Food Code. This is a list of some of the changes that are likely to affect most food establishments.

- Potentially hazardous foods (PHFs) are now called Time/Temperature Control for Safety (TCS) foods.
- Retail Food Stores are defined as “any place, structure, premise, vehicle, or any part thereof in which food is sold retail, offered for retail sale or served not to be consumed on the premises. The term retail food store does not include establishments that handle only prepackaged, non-potentially hazardous foods, roadside markets that offer only fresh fruits and vegetables, or the delicatessen operations of a retail food store.”
- Non-continuous cooking is defined as “the cooking of food in a food establishment using a process in which the initial heating of the food is intentionally halted so that it may be cooled and held for complete cooking at a later time prior to sale or service.
- Cut leafy greens were added to the list of foods defined as TCS foods. (Cut tomatoes, cut melons, and raw seed sprouts are also TCS foods) This means that cut leafy greens will have to be kept under refrigeration at 41°F or below or time control methods must be used for safety controls. Retail food stores will have until July 1, 2024 to repair, upgrade or replace refrigeration equipment to maintain cut leafy greens at 41°F or below, if their existing equipment is not capable of maintaining foods at that temp.
- Critical items (violations) will now be called Priority Items and now there are 3 different categories of violations: Priority, Priority Foundation, and Core Items
- Person-In-Charge (PIC) must ensure that employees are properly trained in food safety including food allergy awareness (2-103.11)
- Food employees must be informed in a verifiable manner of their responsibility to report health information and activities as they relate to diseases transmissible through food (2-103.11 O.)
- Nontyphoidal Salmonella was added to the list of reportable illnesses (2-201.11, 2-201.12, 2-201.13)
- Hand sanitizers used after handwashing must consist of ingredients approved for use on food contact surfaces, as a food additive, or Generally Recognized As Safe-GRAS (2-301.16(A)2)

- Must have procedures in place for responding to vomiting and diarrheal events (2-501.11)
- Wild mushrooms will only be allowed for sale or service with regulatory approval (State Variance is required)
- Bare hand contact is only allowed with foods that will subsequently be cooked. For foods not containing a raw animal food, the required minimum cook temperature is 145°F. For foods containing raw animal foods, the minimum cook temperature is the highest minimum cook temperature for any of the ingredients.
- Prohibits the sale of undercooked comminuted meat from a children's menu (3-401.11)
- Added section 3-401.14 which provides the requirements for non-continuous cooking of raw animal foods
- Requires that reduced oxygen packaged fish that is labeled to be kept frozen until time of use must be removed from its packaging either:
 - a. Prior to thawing under refrigeration, or
 - b. Prior to or immediately upon completion of thawing submerged under cold running water as specified in 3-501.13(B). (3-501.13(E))
- Amended the requirements for reduced oxygen packaging without a variance (3-502.12)
- Amended labeling requirements for salmonid fish for foods packaged in a food establishment (3-502.11(B)7)
- Establishments that use hot water sanitizing dish machines must have an irreversible registering temperature indicator for measuring surface temperatures of dishes and utensils (4-302.13(B))
- Added that food contact surfaces in contact with a succession of different types of raw meat and poultry each requiring a higher cooking temperature are not required to be cleaned before use with each meat or poultry product
- Allows a post-sanitizing hot water rinse in dish machines that are designed to rinse after sanitizing (4-904.14)
- Removed water for irrigation from the list of purposes for which nondrinking water may be used (5-102.12(B))
- Prohibits the use of toilets and urinals as service sinks for the disposal of mop water and similar liquid wastes (5-203.13(B))
- Adds air-knife systems that deliver high velocity, pressurized air at ambient temperatures to the list of approved hand drying methods (6-301.12)
- Revises the section regarding chemicals used to wash, peel, treat, or process fruits and vegetables (7-204.12)

- Requires a food establishment conducting ROP operations to provide the Health Dept with their HACCP Plan prior to beginning ROP operations (8-201.13(B))
- Requires permit holder to post a sign or placard notifying the public that the most recent food safety inspection report is available for the public to view (8-304.11(K))
- If a Priority Item Violation or Priority Foundation Item Violation can not be corrected at the time of the inspection, the Health Department shall agree to a time frame for correction not to exceed 72 hours for a Priority Item violation or 10 days for a Priority Foundation Item violation (8-405.11(B))

Local Ordinances in Jefferson County

As of January 1, 2019 the Jefferson County Board of Health requires that all food establishments in the county have an ANSI-accredited Certified Food Protection Manager on site during all hours of operation. This requirement does not apply to Retail Food Stores that do not prepare or handle unpackaged foods.

As of January 1, 2019 the Jefferson County Board of Health requires every person in a permitted food establishment that handles unpackaged food or food contact surfaces to have a current food handler's card issued either by the JCHD or a statewide food handler's card issued by another jurisdiction. A food handler card shall not be issued unless the person has completed either a food handler training course conducted by the JCHD or an ANSI-accredited online food handler training course.

*Be sure to refer to WV 64CSR17 so you are aware of all the changes the state has made to the 2013 FDA Food Code. You can find a copy of the regulation online at <http://apps.sos.wv.gov/adlaw/csr/readfile.aspx?DocId=51071&Format=PDF>

*You can view the 2013 FDA Food Code and all changes from 2005-2013 here <https://www.fda.gov/food/fda-food-code/food-code-2013>

*You can get more information on approved CFPM courses and Food Handler's courses here <https://www.jchdwv.org/food-safety/food-handlers-cards/>