

Texas Environmental Health Association (TEHA)

Date: March 20, 2026

To: Texas Department of State Health Services

Subject: **TEHA Comments** on Proposed Chapter 226 – Mobile Food Vendor Rule

The Texas Environmental Health Association (TEHA) appreciates the opportunity to provide input on the proposed Chapter 226 Mobile Food Vendor rule. TEHA represents environmental health professionals across Texas who are responsible for implementing and enforcing food safety regulations at the local level.

Based on practitioner experience across diverse jurisdictions, TEHA offers the following priority recommendations to support consistent implementation, clear enforcement authority, and effective public health protection statewide.

Clarification of Local Preemption

Reference: 226.1(b)

The proposed rule limits local jurisdictions from enforcing requirements that conflict with Chapter 226 but does not define what constitutes a conflict. From an implementation perspective, this lack of definition creates uncertainty for local programs responsible for enforcing regulations that extend beyond food safety, including zoning, fire safety, nuisance abatement, land use, and event permitting. Without clear boundaries, jurisdictions may either over-restrict their authority or apply requirements inconsistently, leading to uneven regulatory environments across the state.

TEHA recommends that the rule explicitly clarify that local jurisdictions retain authority to enforce non-food safety regulations, provided such requirements do not directly conflict with food safety provisions established in Chapter 226.

Clarification of Local Authority Under Cooperative Agreements

Reference: 226.2(16); 226.8 – Inspection and Enforcement Provisions

The rule identifies the Department as the regulatory authority but does not clearly define the scope of authority exercised by local jurisdictions operating under cooperative or collaborative agreements. Local environmental health professionals are the primary entities conducting inspections and enforcing compliance. Clarity in delegated authority is essential to ensure that inspections, enforcement actions, and compliance determinations are legally supported.

Absent clear language, there is potential for confusion regarding the legal standing of local inspectors and the enforceability of actions taken under these agreements.

TEHA recommends that the rule explicitly defines the authority granted to local jurisdictions under cooperative agreements, including inspection authority, enforcement authority, and the ability to require corrective actions.

Inspection Location Authority

Reference: 226.8(c); 226.8(d)

The proposed rule allows the regulatory authority to require mobile food vendors to report to designated locations for inspection but does not clearly state whether this authority extends to local jurisdictions operating under agreement. In practice, the ability to require a vendor to report to a specific location is a critical enforcement tool, particularly when vendors cannot be located through itineraries or routine field operations. Without explicit authorization, local jurisdictions may be limited in their ability to ensure timely inspections and compliance.

TEHA recommends that the rule clearly authorizes local jurisdictions operating under cooperative agreements to require mobile food vendors to report to designated inspection locations.

Inspection Frequency

Reference: 226.4 – Licensing; 226.8 – Inspections

The proposed rule does not establish minimum inspection frequency or require jurisdictions to adopt a defined inspection schedule. Inspection frequency is a foundational component of any regulatory program and is necessary to ensure consistent oversight and public health protection.

Without a defined baseline, inspection practices may vary significantly across jurisdictions, resulting in inconsistent levels of oversight and potential gaps in food safety protection.

TEHA recommends that the rule establishes minimum inspection frequency expectations or require jurisdictions to adopt and maintain a documented, risk-based inspection schedule.

Readily Movable Criteria

Reference: 226.2(15); 226.6(b)(4)

The rule requires that a mobile food vendor be “readily movable” but does not provide objective criteria for determining compliance. From an enforcement standpoint, this requirement is critical in distinguishing mobile operations from fixed establishments. However, without clear, measurable standards, determinations may become subjective and inconsistent across jurisdictions. This lack of clarity increases the likelihood of disputes and challenges to enforcement decisions.

TEHA recommends that the rule establish objective criteria for determining when a food vending vehicle is considered readily movable. Such criteria may include factors such as absence of permanent utility connections, ability to relocate without disassembly or addition of wheels, and the capacity to be moved within a defined timeframe.

Conclusion

TEHA supports the development of a clear and consistent regulatory framework for mobile food vendors in Texas. The recommendations provided above are intended to strengthen the rule by improving clarity, supporting consistent enforcement, and ensuring that local jurisdictions can effectively carry out their public health responsibilities.

TEHA appreciates the opportunity to provide input and looks forward to continued collaboration with the Department.