



**NEW YORK CITY  
DEPARTMENT OF HEALTH AND MENTAL HYGIENE**

**Notice of Public Hearing and Opportunity to Comment on Proposed Rules**

**What are we proposing?** The NYC Department of Health and Mental Hygiene proposes to adopt rules governing the grading of mobile food vending units as provided in section 17-325.3 of the Administrative Code of the City of New York. Additional amendments to update and clarify other provisions related to mobile food vending are also proposed.

**When and where is the hearing?** The Department will hold a public hearing on the proposed rule. The public hearing will take place from 10AM until 12PM on July 9, 2018. The hearing will be at the offices of the New York City Department of Health and Mental Hygiene at 42-09 28th Street, Room 3-32, Long Island City, New York 11101-4132.

**How do I comment on the proposed rules?** Anyone can comment on the proposed rules by:

- **Website.** You can submit comments to the Department through the NYC rules website at <http://rules.cityofnewyork.us>.
- **Email.** You can email comments to [resolutioncomments@health.nyc.gov](mailto:resolutioncomments@health.nyc.gov).
- **Mail.** You can mail comments to:  

New York City Department of Health and Mental Hygiene  
Gotham Center, 42-09 28th Street, CN 31  
Long Island City, New York 11101-4132
- **Fax.** You can fax comments to the Department at 347-396-6087.
- **By speaking at the hearing.** Anyone who wants to comment on the proposed rule at the public hearing must sign up to speak. You can sign up before the hearing by calling at 347-396-6078/6116 or e-mail to [resolutioncomments@health.nyc.gov](mailto:resolutioncomments@health.nyc.gov). You can also sign up in the hearing room before the hearing begins on July 9, 2018. You can speak for up to three minutes.

**Is there a deadline to submit comments?** Written comments must be received on or before July 9, 2018 at 5:00PM.

**What if I need assistance to participate in the hearing?** You must tell the Office of the General Counsel if you need a reasonable accommodation of a disability at the hearing. You must tell us if you need a sign language interpreter. You can tell us by mail at the address given above. You may also tell us by telephone at 347-396-6078. Advance notice is requested to allow sufficient time to arrange the accommodation. Please tell us by June 25, 2018.

This location is wheelchair-accessible.

**Can I review the comments made on the proposed rules?** You can review the comments made online on the proposed rules by going to the website at <http://rules.cityofnewyork.us/>. A few days after the hearing, a transcript of the hearing and copies of the written comments will be available for review by the public at the Department's Office of the Secretary.

**What authorizes the Department to make this rule?** Section 389(b) of the New York City Charter provides that “heads of mayoral agencies shall have the power to adopt rules to carry out the powers and duties delegated to the agency head or the agency by or pursuant to federal, state or local law.” Section 1043(a) of the Charter similarly provides that each “agency is empowered to adopt rules necessary to carry out the powers and duties delegated to it by or pursuant to federal, state or local law.” Section 17-325.3 of the Administrative Code requires the Department to “establish and implement a system for grading and classifying inspection results for each vending vehicle or pushcart using letters to identify and represent a vending vehicle or pushcart’s degree of compliance with laws and rules that require such vending vehicle and pushcart to operate in a sanitary matter to protect public health.” In addition, section 17-311 of the Administrative Code authorizes the Department to issues rules related to affixing permit plates and letter grades to mobile food carts, and section 17-324 provides authority for any rules necessary pursuant to the mobile food vending requirements in the Administrative Code.

**Where can I find the Department rules and the Health Code?** The Department’s rules and the Health Code are located in Title 24 of the Rules of the City of New York.

**What laws govern the rulemaking process?** The Department must satisfy the requirements of Section 1043 of the Charter when adding or amending rules. This notice is made according to the requirements of Section 1043(b) of the Charter. These changes were not included in the Department’s regulatory agenda because they were not contemplated at that time.

### **Statement of Basis and Purpose of Proposed Rule**

#### **Introduction**

At its meeting on March 16, 2010, the Board of Health amended section 81.51 of the New York City Health Code and authorized the Department of Health and Mental Hygiene (DOHMH) to establish a letter grading program for restaurants. The Board determined that providing restaurant grading information will inform consumer choice and will improve restaurants’ compliance with the Health Code and promote high food safety standards. Rules implementing letter grading for restaurants were promulgated in Chapter 23 (Food Service Establishment Sanitary Inspection Procedures and Letter Grading) of the Department’s rules.

Since July 2010, the Department has been grading restaurants to provide New Yorkers with information about the results of sanitary inspections. A restaurant’s grade A, B or C depends on how well the restaurant follows food safety requirements.

Local Law 108 of 2017 requires the Department to extend the grading program to mobile food vending units. It requires the program to be consistent with the restaurant grading program where practicable. These proposed rules comply with those directives by amending Chapter 6 (Mobile Food Vending) of the Department’s rules.

Additional amendments are being proposed to Chapter 6 to update and clarify certain other provisions as described below.

#### **Mobile Food Vending Unit Grading Program Amendments**

##### *Mobile Food Grading System*

The proposed amendments create a program to grade mobile food vending units to indicate their degree of compliance with the New York City Health Code, New York State Sanitary Code, and these rules at the time of inspection. Section 17-325.3 of the Administrative Code, as added by Local Law 108, requires the Department to design and implement a program consistent with restaurant grading to the extent practicable. The restaurant grading program incentivized New York City restaurants to improve food safety practices and led to greater compliance with the New York City Health Code and New York State Sanitary Code, including a 41 percent drop in sanitary violations in fiscal 2017 from the peak in fiscal year 2012. As elaborated below, and as consistent with restaurant grading program as possible, the program incorporates a prescribed cycle of inspections that generate scores, a scoring system that determines the grade, and the process for posting grades at various points in the inspection cycle.

The scoring system that will determine the grade for mobile units is the same as for restaurants: a score of less than 14 points earns an “A” grade, a score between 14-27 points earns a “B,” and a score of more than 27 earns a grade of “C.”

The annual inspection cycle begins when a unit undergoes an initial inspection. If the unit receives an A grade, the Department will immediately post the A grade on the unit. If the unit fails to earn an “A,” no grade will be assigned and the Department must reinspect the unit seven or more days later. If, at the reinspection, the unit receives an A grade, the Department will immediately post the A grade on the unit. If the unit again fails to earn an “A,” a grade pending card will be posted on the unit by the Department while the unit appeals the grade to the Office of Administrative Trials and Hearings (OATH). (The unit’s operator may choose to post the grade of “B” or “C” earned at the reinspection instead of a grade pending card, in which case the unit must be brought to the Department for it to post the appropriate letter grade.<sup>1</sup>) A unit with a “grade pending” will be required to post its final grade following the opportunity for adjudication at OATH. This inspection scheme is the same for restaurants.

### *Locating Mobile Food Vending Units*

Unlike restaurants, which exist at a fixed location, mobile units move and are not required to operate on a set schedule. If the Department cannot locate all of the mobile units that require grades, the grading program will fail; not every unit will be graded and the grades that are posted may not be current. The successful implementation of the mobile food vending grading program, and the ability to mirror restaurant grading as closely as possible, requires adhering to the prescribed inspection schedule and ensuring that accurate and current grades are posted and timely on all units. That necessitates the Department being able to find and inspect units across the City. To accomplish this and to check for compliance with grade posting requirements, the Department requires each vending unit to be equipped with a location sharing device that will enable the Department to pinpoint the unit’s location when it is to be inspected.

The ability to locate a mobile food vending unit is necessary to implement the mobile food vending unit grading program. If the Department cannot find a unit to conduct an initial inspection or a reinspection, that unit will not have a current grade. The Department’s historical data reveals that it currently is only able to locate and inspect approximately 80% of the units that have permits to vend food in the City. For about one of every five units, the Department has been unsuccessful at predicting where the unit can be found, based solely on information it has about each unit’s vending locations. The inability to locate units

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<sup>1</sup> Unlike at a restaurant inspection, the Department is requiring operators that choose to post a “B” or “C” grade following a reinspection to bring the unit to the Department to post the grade because the vendor staffing a unit at the time of the reinspection may not be the permit holder with the authority to make the decision. Based on experiences in the preferences of restaurant owners, the Department proposes to immediately post the “grade pending” sign following a reinspection that does not result in an “A” grade as the default, and allow permit holders who would prefer a letter-grade to arrange for it to be posted on the unit by the Department.

will undermine the purpose of a grading system if a significant number of units are not graded or are posting grades that are inaccurate or out of date, which could degrade the reliability of the mobile food grades and the public's confidence in the program. By requiring all units to install location sharing devices, the Department will be able to inspect and grade a sufficient number of units to ensure the integrity of the grading program.

Grading promotes high food safety standards by leveraging consumer purchasing power, which, in turn motivates vendors to comply with food safety rules and achieve A grades. That system -- harnessing consumer interest in A grades to motivate vendors to comply with food safety rules to promote high food safety practices to protect public health -- is only achieved if the grade are accurate and reliable. In order to conduct inspections and keep grades accurate and reliable, the Department must be able to locate the vending units.

#### Additional Mobile Food Vending Grading Amendments

Amendments related to grading include additional definitions in section 6-02 and new sections 6-16 to 6-21, using a scheme similar to the one in Chapter 23 of the Department's rules for grading restaurants. New appendices 6-A and 6-B are being added to Chapter 6 to implement scoring of inspection results. Appendices 6-C, 6-C-2 and 6-C-3 set out penalties for civil violation summonses for mobile food vending violations that are adjudicated and sustained at OATH, using a schedule similar to that of Chapter 23 Appendix C (Food Service Establishment and Non Retail Food Service Establishment Penalty Schedule). These new appendices will replace the current penalty schedules for the same violations currently in OATH's rules.

#### Other Proposed Amendments to Chapter 6

Amending paragraph (3) of subdivision (b) of section 6-04 to require all mobile food vending units to have a permit-decal space that is a flat, smooth metal surface, which is the best material for the permit decal adhesive.

Amending subdivision (f) of section 6-04 to clarify and extend the deadline for water tank upgrades, and include a new requirement for a mechanical or electronic device to allow vendors to monitor water levels.

Repealing paragraphs (1) and (2) of subdivision (a) of section 6-06 to remove expired provisions related to with the allowable sizes for units other than trucks.

Amending section 6-07(a) to remove the requirement that decals be placed on two sides of a green cart.

Amending section 6-07(b) to remove the requirement of a green cart umbrella.

Amending subdivisions (d) and (h) of section 6-11 to delete the references to reinspection.

Amending section 6-11(l) to allow for revocation or denial of a permit for failing to have or tampering with grade cards or location sharing devices.

#### Statutory Authority

Section 17-325.3 of the Administrative Code requires the Department to "establish and implement a system for grading and classifying inspection results for each vending vehicle or pushcart using letters to identify and represent a vending vehicle or pushcart's degree of compliance with laws and rules that require such vending vehicle and pushcart to operate in a sanitary matter to protect public health." In

addition, section 17-311 of the Administrative Code authorizes the Department to issues rules related to affixing permit plates and letter grades to mobile food carts, and section 17-324 provides authority for any rules necessary pursuant to the mobile food vending requirements in the Administrative Code.

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The proposal is as follows. Deleted material appears in [brackets]. New material is underlined. The terms “shall” and “must” may be used interchangeably and denote mandatory requirements, unless the context clearly indicates otherwise.

Section 1. Section 6-02 of Chapter 6 of Title 24 of the Rules of the City of New York is amended to read as follows:

§6-02 Definitions.

Words and terms used in this Chapter have the following meanings:

**Acceptable to the Department** means acceptable under conditions of use and being used in conformance with applicable regulatory, industrial or other safety standards.

**Compliance inspection** means an inspection conducted within an inspection cycle that is not conducted for the purpose of grading.

**Condition level** means the value (I, II, III, IV or V) based on the number, magnitude or pervasiveness of occurrences, or the seriousness of risk presented by a violation.

**Contaminated** has the meaning set forth in Article 81 of the Health Code.

**Critical violations** means the violations of the Health Code or other applicable law listed under the classification “critical violation” in Appendices 6-A and 6-B to this Chapter.

**Decal** has the same meaning as in Article 89 of the Health Code.

**Detergent sanitizer** means a solution used to wash and/or sanitize utensils and equipment.

**Food** has the meaning set forth in Article 71 of the Health Code.

**Food grade material** means material certified as meeting the standards of the National Sanitation Foundation (NSF) or other organization utilizing a process approved by the American National Standards Institute (ANSI), or that is otherwise acceptable to the Department in compliance with §81.17 of the Health Code or successor provision. During use with food products such material shall not react with such food products or food contact surfaces; and shall not contaminate or impart any odor, color or taste to such food products. [No food additive, food equipment, lubricant or other similar substance used in food processing, preparation, storage or service shall expose food to physical debris, toxic chemicals, harmful substances or other contaminants.]

**General violations** means violations listed under classification “general violations” in the Appendices A and B to this Chapter.

**Grade card or card** means the document or sticker issued by the Department to a mobile food vending unit indicating the letter grade associated with the score for an inspection of that unit.

**Green cart** has the meaning set forth in §17-306(s) of the Administrative Code or successor provision.

**Grade pending card** means the document or sticker issued by the Department to a mobile food vending unit indicating the unit’s grade for the current inspection cycle is in the process of being determined.

**Initial inspection** means the first sanitary inspection within an inspection cycle.

**Inspection cycle** means a series of inspections of a mobile food vending unit that are conducted pursuant to §§6-17 and 6-18 of this Chapter that begins with each initial inspection.

**Location sharing device** means an electronic device affixed to a mobile food vending unit that transmits the geographic location of the unit with sufficient accuracy to locate such unit on a street or other location.

**Mobile food commissary or other facility approved by the Department** means either

- (i) A facility that complies with the requirements of Articles 81 and §89.27 of the Health Code, or
- (ii) A facility that does not have a commissary permit and provides storage and/or cleaning of no more than four Class D or Class E mobile food vending units, nor more than one food truck, in accordance with §6-08 of this Chapter.

**Mobile food vending unit** [means a food service establishment as defined in Article 81 of the Health Code located in a pushcart or truck, self or otherwise propelled, used to store, prepare, display, serve or sell food, or distribute food free of charge to the public, for consumption in a place other than in or on the unit. Any such pushcart or food truck is deemed a mobile food vending unit whether operated indoors or outdoors, on public, private or restricted space. A mobile food vending unit does not mean a stand or a booth] **(MFVU) or unit** has the same meaning as in Article 89 of the Health Code.

**Operate or operation of a mobile food vending unit** shall have the same meaning as in Article 89 of the Health Code.

**Potable water** means drinking water that meets the drinking water requirements of subpart 5-1 of the State Sanitary Code and is thereby suitable for human consumption or use directly or indirectly in connection with the preparation of food for human consumption, including ice making and cleaning of utensils and equipment.

**Potentially hazardous food** has the same meaning [set forth] as “potentially hazardous food or time and temperature controlled for safety (TCS) food” means in Article 81 of the Health Code.

**Pre-permit inspection by the Department** means the inspection of a mobile food vending unit in which the Department determines that the unit has been constructed and equipped in accordance with this Chapter. A pre-permit inspection by the Department is required:

- (i) Before the issuance of a new or renewed mobile food vending permit and decal;
- (ii) When a permittee seeks to replace a mobile food vending unit with another unit;
- (iii) When a permittee seeks to amend a permit classification from non-processing to processing or processing to non-processing;
- (iv) When a mobile food vending unit has sustained a material alteration, as defined in § 89.03(e) of the Health Code; or
- (v) When any permit decal has been removed.

**Processing** means transforming food into the form in which it is to be served to the mobile food vending unit patron, including, but not limited to, by means of slicing, dicing, grating, portioning, blending, mixing, combining, cooking and reheating, or otherwise treating food in such a way as to create a risk that it may become adulterated if improperly handled. Portioning by butchering is not allowed; food may be processed on a mobile food vending unit only in accordance with Article 89 of the Health Code. A person who processes food on a mobile food vending unit is not a manufacturer, as that term is defined in Administrative Code §17-306 (p), or successor provision of law.

**Public health hazards** means critical violations that are known to contribute directly to food-borne illness or disease, identified with an asterisk (\*) in Appendix A of this Chapter, and which include but are not limited to, imminent health hazards defined in Article 81 of the Health Code and Part 14 of the State Sanitary Code.

**Reinspection** means a sanitary inspection conducted for the purposes of grading following receipt of a score of 14 or more points on an initial inspection.

**Sanitization** means effective treatment by heat or chemical means that destroys pathogens on surfaces treated and is acceptable to the Department, as defined in § 81.03(ii) of the Health Code, or successor provision.

**Summons** means a civil notice of violation or other document issued by the Department or other City agency to a mobile food vending permit-holder or vendor that charges a violation of the Health Code, or any other law or rule, for which a monetary penalty is sought, and which is adjudicated at the Office of Administrative Trial and Hearings.

**Ware washing or multi-compartment sink** means a sink, other than a hand wash, dedicated to washing cookware, kitchenware and utensils.

§ 2. Section 6-03 of Chapter 6 of Title 24 of the Rules of the City of New York is amended to read as follows:

§6-03 Mobile food vending unit classifications.

(a) Mobile food vending units shall be classified based on the foods, processing and packaging of foods served. Class A and Class B units are processing units and Class C, Class D and Class E units are non-processing units for the purpose of payment of the permit fees set forth in §17-308 (c) of the Administrative Code, or successor provision, and Article 5 of the Health Code.

[(a)] (1) Class A mobile food vending unit means a processing unit on which raw, pre-cooked and/or manufactured potentially hazardous foods requiring temperature control as specified in Health Code §81.09 are stored, prepared and provided for individual service. Such foods include, but are not limited to, grilled or fried meats, sausages, poultry, shish kebab, hamburgers, eggs and gyros.

[(b)] (2) Class B mobile food vending unit means a processing unit in or on which pre-cooked and/or manufactured potentially hazardous foods requiring temperature control as specified in §81.09 of the Health Code are stored, prepared and provided for individual service. Such foods include, but are not limited to, sandwiches prepared on the unit, raw fruits, vegetables and salads, breads, bagels and rolls buttered or topped with cream cheese on the unit, smoothies and soft serve ice cream.

[(c)] (3) Class C mobile food vending unit means a non-processing unit in or on which only intact, prepackaged potentially hazardous foods requiring temperature control as specified in Health Code §81.09 are provided for individual service. Such foods include, but are not be limited to, prepackaged frozen desserts, prepackaged sandwiches, and prepackaged and presliced fruits and vegetables.

[(d)] (4) Class D mobile food vending unit means a non-processing unit in or on which non-potentially hazardous packaged or unpackaged foods not requiring temperature control for safety are provided or served. Such foods include, but are not limited to, brewed coffee and tea, donuts, pastries, rolls and bagels buttered or topped with cream cheese at a commissary, popcorn, cotton candy, nuts, candied nuts, soft pretzels, and chestnuts, regardless of whether such foods are heated for aesthetic purposes. However, mobile food vending units that prepare and serve any potentially hazardous foods, including but not limited to, dairy products, pre-cooked or manufactured knishes, boiled frankfurters and sausages are Class D mobile food units that require equipment or other means of holding potentially hazardous foods at the temperatures required by Articles 81 and 89 of the Health Code.

[(e)] (5) Class E mobile food vending unit means a green cart or other non-processing mobile food vending unit in or on which only non-potentially hazardous uncut fruits and vegetables are sold or held for sale or service.

[(f)] (b) Only food to be served or sold. A permit to distribute or sell food from a mobile food vending unit does not authorize the sale of any other product or merchandise from such unit.

[(g)] (c) If a vendor serves or prepares foods included in more than one Class of operation, the unit must be equipped in accordance with the classification that reflects the greater degree of food protection.

§ 3. The title of section 6-04 of Chapter 6 of Title 24 of the Rules of the City of New York, and paragraph (3) of subdivision (b) such section 6-04, are amended to read as follows:

§6-04 Mobile food vending units: [pre-permit] construction and equipment requirements for all classes of mobile food vending units.

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(3) Permit decal and grade card to be visible and unobstructed. [No ornamentation, advertisement, menu, price list, other display, sign or printed matter may cover or obscure the permit decal. A six (6) inch space shall be left clear on all sides of the decal. The decal may be covered by a hinged, hard,

transparent plastic or glass cover no thicker than one-sixteenth of an inch. The cover shall not be secured by a lock, but installed so that the decal may be directly accessible for examination and inspection at all times.] The permittee shall provide a space on the unit that is a permanent part of the mobile food vending unit for the placement of a permit decal and the posting of a grade card in accordance with this chapter. Such space shall:

(A) not be readily or easily removable and shall consist of a flat, smooth metal surface;

(B) be no less than 14 inches in height and 14 inches in width;

(C) be located on the exterior of the unit directly to the left or right of the primary customer service window or service area;

(D) be adjacent to the primary customer service window or be located as close to the top of the unit as possible as to be readily visible to the public;

(E) not be located near any heat-producing equipment or any side of the unit that abuts the curb; and

(F) not be covered by any material or protective covering that blocks or obscures the permit-decal or grade card, or impedes direct access for physical examination, inspection, and removal by government officials.

§ 4. Paragraph (1) of subdivision (f) of section 6-04 of Chapter 6 of Title 24 of the Rules of the City of New York is amended to read as follows:

(1) *Tank capacity.* When a potable water supply is required by Table 1 of §6-05 of this Chapter, a food truck shall be equipped with a tank or tanks with a total capacity of no less than 40 gallons; other mobile food vending units shall be equipped with a tank or tanks with a total capacity of no less than 10 gallons. All tanks shall be filled to capacity prior to beginning operation or operating[, as defined in Health Code §89.03 (j)]. On and after January 1, [2018] 2020, all potable water tanks shall be equipped with a [water level indicator visible from outside the tanks] mechanical or electronic device indicating the amount of water remaining in the tank. Water levels must be marked on each tank in gallon (or metric equivalent) increments, from zero to the tank's maximum capacity, that are readily observable and easily readable by the vendor from outside the tank.

§ 5. Subdivision (a) of section 6-05 of Chapter 6 of Title 24 of the Rules of the City of New York is amended to read as follows:

(a) In addition to the general requirements for construction and design of mobile food vending units and their equipment in §6-04 of this Chapter, and the location sharing device required by §6-21 of this Chapter, each class of vending units shall be supplied and equipped in accordance with Table 1 of this section. The minimum equipment required is determined by the class of the unit and the foods that are processed and/or sold on the unit.

§ 6. Subdivision (a) of section 6-06 of Chapter 6 of Title 24 of the Rules of the City of New York is amended to read as follows:

(a) Non-truck units. No permit shall be issued [after October 31, 2013] for any mobile food vending unit pushcart that exceeds ten (10) feet in length and five (5) feet in width, including wheels, axles and other appurtenances to such wheels. When vending on a sidewalk, the operator must place the unit so that the longer side is parallel and next to the curb that borders the sidewalk.

[(1) Current permits for units that exceed the size restrictions, and that expire on or before October 31, 2013, shall be renewed only once. Subsequent renewal permits shall be approved only for units that comply with these size restrictions.



(2) Current permits that expire on or after November 1, 2013 shall be approved for renewal only for units that comply with these size restrictions.]

§ 7. Section 6-07 of Chapter 6 of Title 24 of the Rules of the City of New York is amended to read as follows:

§6-07 Green carts.

(a) The Department will permanently affix on [two sides of] each green cart[, as that term is defined in §17-306 (s) of the Administrative Code, either identical permit plates or identical permit decals that are] a decal that is easily identifiable and distinguishable from [all] any other [plates or decals] decal on the green cart. Such [plates or decals] decal shall contain the fresh fruits and vegetables permit number issued to the owner of each such green cart and the borough and police precincts in which the green cart is authorized to operate. [Permit decals] A decal may not be removed or transferred to any other mobile food vending unit.

(b) [At the time an initial green cart permit is issued, the Department will provide a distinctive and readily recognizable “green cart” umbrella to each green cart permittee. The umbrella must be safely secured to the green cart and maintained in good condition and repair at all times by the permit holder, and must be displayed in an open position above the green cart whenever the green cart is being used to vend. For any replacement umbrella, the green cart permittee must pay a fee of fifty dollars (\$50.00) reimbursing the Department for the cost of the umbrella.] In addition to the above requirements specific to green carts, green carts must comply with all other applicable requirements pertaining to Class E mobile food vending units.

(c) Exemption of police precincts where green carts may vend. Notwithstanding any provision in §17-307(b)(4)(b) of the Administrative Code, no fresh fruits and vegetables permit may be designated for use within either the 45th or 72nd police precincts of the City of New York.

§ 8. The undesignated opening paragraph and subdivisions (d), (h), and (l) of section 6-11 of Chapter 6 of Title 24 of the Rules of the City of New York are amended to read as follows:

No unit shall be approved for use and no permit shall be issued unless such unit has passed a pre-permit inspection by the Department and found to be constructed and equipped in compliance with this Chapter and Article 81 and Article 89 of the Health Code; and the permit-holder or permit applicant has submitted proof acceptable to the Department that the unit is serviced and stored by a commissary or other approved facility.

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(d) Pre-permit inspections [and re-inspections]. Permit applicants or permittees must bring the mobile food vending unit in for inspection, at a place designated by the Department, and present (ii) a currently valid mobile food vendor’s license, and (ii) another government issued photo identification acceptable to the Department in the following circumstances:

- (1) Before the issuance of a new or renewed mobile food vending permit and decal;
- (2) When a permittee seeks to replace a mobile food vending unit with another unit;
- (3) When a permittee seeks to amend a permit classification from non-processing to processing or processing to non-processing;
- (4) When a mobile food vending unit has sustained a material alteration, as defined in §89.03 (e) of the Health Code; or
- (5) When any permit decal has been removed.

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(h) [Reinspection] Inspection of damaged, repaired or materially altered mobile food vending units. [Any mobile food vending unit that has been damaged and repaired, or materially altered so as to change or result in a change in the size of the unit, or has undergone replacement of any part of the body structure or equipment of the unit shall be brought to the Department for reinspection prior to reuse or continued use of the unit. Repair or replacement of a tire or an axle, and straightening a dent in a panel are not considered material alterations.] A pre-permit inspection is required when a mobile food vending unit is materially altered as defined by Article 89 of the Health Code.

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(l) Enforcement. [A new or renewal decal and permit may be denied] The commissioner may refuse to issue a new or renewal permit for:

- (1) Failing to allow photographs of the permittee or the unit.
- (2) Failing to appear in person for pre-permit inspections of a mobile food vending unit.
- (3) Failing to provide information about the operators of the units or foods sold on the unit.
- (4) Failing to maintain and submit an agreement with a commissary.
- (5) Failing to bring the mobile food vending unit to a place designated by the Department to affix a letter grade or to install, replace or maintain a location sharing device to the unit.
- (6) Removing, disposing, tampering with, or modifying the letter grade affixed to a mobile food vending unit or a location sharing device installed to the unit.

§ 9. Chapter 6 of Title 24 of the Rules of the City of New York is amended by adding six new sections 6-16, 6-17, 6-18, 6-19, 6-20, and 6-21, to read as follows:

§6-16 Scoring mobile food vending unit inspections.

The Department shall, when conducting a sanitary inspection, assess points only for those violations, violation conditions and condition levels listed in Appendix 6-A (Self-Inspection Worksheet for Mobile Food Vending Units (MFVU)) and Appendix 6-B (Mobile Food Vending Unit (MFVU)) Inspection Scoring Parameters: A Guide to Conditions to this Chapter. Terms used in these appendices and not otherwise defined in this Chapter shall have the same meaning as their definitions in Articles 81 and 89 of the Health Code.

§6-17 Letter grading.

(a) The Department, whenever practicable, shall conduct an inspection at least annually of each mobile food vending unit for the purpose of issuing such unit a letter grade. Based on the results of either the initial inspection or reinspection within an inspection cycle, a mobile food vending unit shall be graded as either "A," "B," or "C" for that inspection cycle, except that a unit shall not receive any grade if the Department orders that it be closed.

(b) The Department shall issue a letter grade of "A" to any unit that receives fewer than 14 points on either the initial inspection or reinspection within an inspection cycle.

(c) The Department shall not issue a letter grade to any mobile food vending unit receiving 14 or more points on an initial inspection but shall schedule a reinspection to occur no sooner than seven days after the initial inspection. The Department shall on the reinspection issue a grade of "B" to any unit receiving 14-27 points and a letter grade of "C" to any unit receiving 28 or more points.

(d) The Department in any inspection cycle, in addition to conducting an initial and any reinspection for the purpose of issuing a unit a letter grade, may also conduct a compliance inspection after any inspection that results in a score of 28 points or more. The score received on any compliance inspection shall not change a unit's letter grade for that inspection cycle.

#### §6-18 Intervals between inspection cycles.

(a) The time between a completed cycle and the initial inspection in the next inspection cycle for a unit that receives 14 or more points on its initial inspection shall be determined by the higher score from either its initial inspection or its reinspection.

(1) An initial inspection commencing a new cycle shall be conducted approximately one year after issuance of an "A" grade to a unit that received less than 14 points on its initial inspection in the previous cycle.

(2) An initial inspection commencing a new inspection cycle shall be conducted 150-210 days after the reinspection of any unit that receives a score of 14-27 points on an initial inspection or reinspection and does not score 28 or more points on either of these inspections.

(3) An initial inspection commencing a new inspection cycle shall be conducted 90 to 150 days after the final inspection of the cycle of a unit that receives a score of 28 or more points on its initial inspection or reinspection.

(4) An initial inspection commencing a new inspection cycle shall be conducted within 60 to 120 days of reopening for a unit that is authorized by the Department to reopen following a Department closure that occurs on an initial or reinspection of that unit.

(b) When there is an increased risk to public health as determined by the Department, nothing in these rules shall prevent the Department from inspecting a unit and treating that inspection as the initial inspection in a new inspection cycle. Such circumstances include, but are not limited to, a unit having a history of Department closure(s), being the subject of complaints of unsanitary conditions, or being compromised following an environmental emergency.

(c) Notwithstanding the provisions of this section, a new inspection cycle shall commence whenever:

(1) A mobile food vending unit changes from a pushcart to a vehicle or from a vehicle to a pushcart, as such terms are defined in Article 89 of the Health Code.

(2) A new decal is issued because there has been a change in the permit classification as described in section 6-03.

#### §6-19 Posting letter grades.

A mobile food vending unit must have a letter grade posted at all times, as required by these rules.

(a) The Department shall at the time of inspection issue and post a letter grade "A" on a unit that receives a score of less than 14 points on an initial or reinspection.

(b) If a mobile food vending unit receives a score of 14 or more points on an initial inspection, and is not closed by the Department, it shall continue to post its grade from the prior inspection cycle until its reinspection. If the unit has been issued no prior grade card, it shall have no posting until its reinspection.

(c) If a mobile food vending unit receives a score of 14 or more points on the reinspection, and is not closed by the Department, the Department shall post on the unit a "grade pending" card. If the permit-holder elects to have the grade of "B" or "C" earned at the reinspection posted to the unit instead of a "grade pending" card, the permit-holder may contact the Department to arrange for the unit to be brought to a place designated by the Department so the Department may post the preliminary grade.

(d) Grading after adjudication of summonses. Where a unit scores 14 or more points on a reinspection and was issued one or more summonses for findings made at that inspection, the following shall apply:

(1) Except as described in paragraph (2) of this subdivision, within 42 days of the reinspection date that generated the summons, the permit-holder shall contact the Department to arrange for the posting of the final letter grade for that inspection cycle.

(2) If the permit-holder adjudicates all summonses associated with the reinspection on or before the hearing date listed on those summonses but has not received hearing decisions within 42 days from the time of reinspection, the permit-holder may continue to post a “grade pending” card until hearing decisions are issued. In this instance, the permit-holder shall have five (5) days from the date of decision to contact the Department to arrange for posting of the final letter grade for that inspection cycle.

(3) It shall be the duty of the permit-holder to check the status of summons and comply with the timeframes of this section for the posting of letter grades.

#### §6-20 Position of grade cards on mobile food vending units; tampering prohibited.

(a) The Department shall affix a letter grade or “grade pending” card on the mobile food vending unit on top of the decal or any other place determined by the Department.

(b) A mobile food vending unit shall not dispose of, remove, tamper with, obscure or modify the letter grade card.

#### §6-21 Location sharing.

(a) The Department shall install a location sharing device on each mobile food vending unit associated with a permit to vend food. The Department may alter the mobile food vending unit to the extent necessary to install or affix such device to the unit.

(b) A location sharing device shall be provided and installed by, and remain the property of, the Department. After the Department installs the device, the mobile food vending unit shall operate with the device at all times. The device shall only be used to locate a mobile food vending unit at a specific moment in time, and shall not continuously track the location of the unit on which it is affixed.

(c) The Department shall install the initial location sharing device at a pre-permit inspection. No person other than the Department shall attempt to or actually remove, dispose of, obstruct, tamper with, or modify a location sharing device. Removing, disposing of, or tampering with, or in any way interfering with the operation of the location sharing device shall be grounds to revoke a mobile food vending permit or license or both.

(d) In the event the Department determines that the location sharing device on a mobile food vending unit is not functioning, it may issue a written order to the permittee to bring the unit to a location designated by the Department. Upon receiving such an order, a permittee must bring the unit to the designated location within five (5) days unless otherwise instructed by the Department.

(e) The Department shall only use and disclose data obtained from a location sharing device to locate a unit for the purposes of enforcing the provisions of this Chapter, the Health Code, the Administrative Code or as otherwise required by law.

## APPENDIX 6-A SELF-INSPECTION WORKSHEET FOR MOBILE FOOD VENDING UNITS (MFVU)

<u>Critical Violations</u>		<u>Conditions</u>					<u>Score</u>																	
		<u>I</u>	<u>II</u>	<u>III</u>	<u>IV</u>	<u>V</u>																		
<b><u>Time and Temperature Control for Safety (TCS) Food Temperature</u></b>																								
<b><u>2A*</u></b>	Food not cooked to required minimum internal temperature:																							
	<table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="text-align: left;">Food</th> <th style="text-align: left;">Required Minimum Internal Temperature at or above:</th> </tr> </thead> <tbody> <tr> <td>Poultry, poultry parts, ground and comminuted poultry, all stuffing containing poultry, meats, fish or ratties</td> <td>165° F for 15 seconds with no interruption of the cooking process</td> </tr> <tr> <td>Ground meat, and food containing ground and comminuted meat</td> <td>158° F, with no interruption of the cooking process, except per individual customer request</td> </tr> <tr> <td>Pork, any food containing pork</td> <td>150° F for 15 seconds</td> </tr> <tr> <td>Mechanically tenderized or injected meats</td> <td>155°F</td> </tr> <tr> <td>Whole meat roasts and beef steak</td> <td>required temperature and time listed in 81.09(c)(3), except per individual customer request</td> </tr> <tr> <td>Raw animal foods cooked in microwave</td> <td>165° F, covered, rotated or stirred for 2 minutes</td> </tr> <tr> <td>Shell eggs</td> <td>145° F for 15 seconds, except per individual customer request</td> </tr> <tr> <td>All other foods</td> <td>140° F for 15 seconds</td> </tr> </tbody> </table>	Food	Required Minimum Internal Temperature at or above:	Poultry, poultry parts, ground and comminuted poultry, all stuffing containing poultry, meats, fish or ratties	165° F for 15 seconds with no interruption of the cooking process	Ground meat, and food containing ground and comminuted meat	158° F, with no interruption of the cooking process, except per individual customer request	Pork, any food containing pork	150° F for 15 seconds	Mechanically tenderized or injected meats	155°F	Whole meat roasts and beef steak	required temperature and time listed in 81.09(c)(3), except per individual customer request	Raw animal foods cooked in microwave	165° F, covered, rotated or stirred for 2 minutes	Shell eggs	145° F for 15 seconds, except per individual customer request	All other foods	140° F for 15 seconds	=	=	=	10	28
Food	Required Minimum Internal Temperature at or above:																							
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All other foods	140° F for 15 seconds																							
<b><u>2B*</u></b>	Hot TCS food item not held at or above 140° F.	7	8	9	10	28																		
<b><u>2C</u></b>	Hot TCS food item that has been cooked and cooled is being held for service without first being reheated to 165° F or above for 15 seconds within 2 hours.	5	6	7	8	=																		
<b><u>2D</u></b>	Precooked TCS food in hermetically sealed and intact packages from commercial food processing and non-retail processing establishments not heated to 140° F within 2 hours.	5	6	7	8	=																		
<b><u>2E</u></b>	Whole frozen poultry or poultry breasts, other than a single portion cooked frozen or partially thawed.	5	6	=	=	=																		
<b><u>2F</u></b>	Meat, fish, poultry or eggs served or offered raw or undercooked without written consumer advisory.	5	=	=	=	=																		
<b><u>2G*</u></b>	Cold TCS food item held above 41° F, processed fish above 38° F or intact raw eggs above 45° F. Applies except during necessary preparation.	7	8	9	10	28																		
<b><u>2H*</u></b>	After cooking or removal from hot holding, TCS food not cooled by an approved method whereby the internal temperature is reduced from 140° F to 70° F or less within 2 hours, and from 70° F to 41° F or less within 4 additional hours.	7	8	9	10	28																		
<b><u>2I</u></b>	TCS food removed from cold holding or prepared from or combined with ingredients at room temperature not cooled by an approved method to 41° F or below within 4 hours.	5	6	7	8	=																		
<b><u>Food Source</u></b>																								
<b><u>3A*</u></b>	Food from unapproved or unknown source or home canned or home prepared. Live animal slaughtered and/or raw meat processed into smaller cuts or pieces in the MFVU. Ice not obtained in chipped, crushed, or cubed form and in single-use food grade plastic or wet-strength paper bag sealed at the point of manufacture.	=	=	=	10	28																		
<b><u>3B*</u></b>	Commercially manufactured, or processed shellfish not from approved source, or improperly tagged/labeled: tags not retained for 90 days on MFVU.	=	=	=	10	28																		
<b><u>3C*</u></b>	Unclean or cracked whole eggs or unpasteurized liquid, frozen or powdered eggs kept or used.	7	8	9	10	28																		

\* Public Health Hazards (PHH) must be corrected immediately. + Pre-permit Serious Violations that must be corrected before permit is issued.

<b>3D*</b>	<u>Food packages, canned food, hermetically sealed container not suitable for human consumption. Packages swollen, leaking or rusted, without "Do Not Use" label or not segregated from other consumable food items.</u>	<u>7</u>	<u>8</u>	<u>9</u>	<u>10</u>	<u>28</u>	
<b>3E*</b>	<u>No or inadequate potable water supply. Water or ice not potable or from unapproved source. Bottled water not NY state certified. Cross connection in potable water supply system.</u>	=	=	=	<u>10</u>	<u>28</u>	
<b>3F*</b>	<u>Unpasteurized milk or milk product (except certain aged cheese) served.</u>	=	=	=	<u>10</u>	<u>28</u>	
<b>3G</b>	<u>Raw fruit or vegetables not properly washed prior to cutting or serving.</u>	<u>5</u>	<u>6</u>	<u>7</u>	<u>8</u>	=	
<b>3H*</b>	<u>Raw meat, fish, or shellfish stored, prepared, served or sold on MFVU.</u>	=	=	=	<u>10</u>	<u>28</u>	
<b>3J*</b>	<u>Unpasteurized juice packaged and sealed on MFVU or commissary not labeled or label incomplete; no warning statement.</u>	=	=	=	<u>10</u>	<u>28</u>	
<b>Food Protection</b>							
<b>4B*</b>	<u>Food worker or vendor spits; prepares food or touches utensil when ill with a disease transmissible by food or has exposed infected cut or burn on hand.</u>	=	=	=	<u>10</u>	<u>28</u>	
<b>4C*</b>	<u>Food worker or vendor does not use utensil or other barrier to eliminate bare hand contact with food that will not receive adequate additional heat treatment.</u>	<u>7</u>	<u>8</u>	<u>9</u>	<u>10</u>	<u>28</u>	
<b>4D*</b>	<u>Food worker or vendor does not wash hands thoroughly after using the toilet, coughing, sneezing, smoking, eating, or otherwise contaminating hands or does not change gloves when gloves are contaminated.</u>	=	=	=	<u>10</u>	<u>28</u>	
<b>4E*</b>	<u>Toxic chemicals or pesticides improperly labeled, stored or used such that food contamination may occur.</u>	<u>7</u>	<u>8</u>	<u>9</u>	<u>10</u>	<u>28</u>	
<b>4F*</b>	<u>Food, food preparation area, food storage area, or other area used by food worker or food vendor contaminated by sewage or liquid waste.</u>	=	=	=	<u>10</u>	<u>28</u>	
<b>4G*</b>	<u>Unprotected TCS food re-served.</u>	=	=	=	<u>10</u>	<u>28</u>	
<b>4H*</b>	<u>Raw, cooked or prepared food is adulterated, contaminated or cross-contaminated. Food exposed to contamination when containers stored in cooking water.</u>	<u>7</u>	<u>8</u>	<u>9</u>	<u>10</u>	<u>28</u>	
<b>4I</b>	<u>Unprotected non-TCS food re-served.</u>	<u>5</u>	<u>6</u>	<u>7</u>	<u>8</u>	=	
<b>4J</b>	<u>Properly calibrated thermometer or thermocouple not provided or not readily accessible in food preparation and hot/cold holding areas to measure temperatures of TCS foods during cooking, cooling, reheating and holding.</u>	<u>5</u>	=	=	=	=	
<b>4K</b>	<u>Evidence of rats or live rats in MFVU's food and/or non-food areas.</u>	<u>5</u>	<u>6</u>	<u>7</u>	<u>8</u>	<u>28</u>	
<b>4L</b>	<u>Evidence of mice or live mice in MFVU's food and/or non-food areas.</u>	<u>5</u>	<u>6</u>	<u>7</u>	<u>8</u>	<u>28</u>	
<b>4M</b>	<u>Live roaches in MFVU's food and/or non-food areas.</u>	<u>5</u>	<u>6</u>	<u>7</u>	<u>8</u>	<u>28</u>	
<b>4N</b>	<u>Filth flies or food/refuse/sewage associated (FRSA) flies or other nuisance pests in MFVU's food and/or non-food areas. FRSA flies include house flies, blow flies, bottle flies, flesh flies, drain flied, Phorid flies and fruit flies.</u>	<u>5</u>	<u>6</u>	<u>7</u>	<u>8</u>	<u>28</u>	
<b>4O</b>	<u>Live animal other than fish in tank or service animal present in MFVU food and/or non-food area.</u>	<u>5</u>	<u>6</u>	<u>7</u>	<u>8</u>	=	

\* Public Health Hazards (PHH) must be corrected immediately. + Pre-permit Serious Violations that must be corrected before permit is issued.

Facility Design and Construction						
<b>5A*</b>	<u>Sewage disposal system is not provided, improper, inadequate or unapproved. Waste tank not provided with a readily accessible vented check valve.</u>	=	=	=	<u>10</u>	<u>28</u>
<b>5B*</b>	<u>Harmful, noxious gas or vapor detected. Carbon Monoxide (CO) level at or exceeding nine (9) ppm.</u>	=	=	=	<u>10</u>	<u>28</u>
<b>5C+</b>	<u>Food contact surface or equipment improperly constructed, placed or maintained. Unacceptable material used. Culinary sink or other acceptable method not provided for washing food. Potable water tank and plumbing improperly constructed or designed.</u>	<u>7</u>	<u>8</u>	<u>9</u>	<u>10</u>	<u>28</u>
<b>5D+</b>	<u>No hand wash facility or hand wash facility not accessible, obstructed or used for non-hand washing purposes. No hot and cold running water or water at inadequate pressure. No soap or acceptable hand-drying device.</u>	=	=	=	<u>10</u>	<u>28</u>
<b>5F+</b>	<u>Inadequate or no refrigerated or hot holding equipment to maintain Time/Temperature Control for Safety (TCS) foods at required temperatures.</u>	=	=	=	<u>10</u>	<u>28</u>
<b>5H+</b>	<u>No facilities available to wash, rinse, and sanitize utensils or equipment and/or refillable returnable containers. No approved written standard operating procedure for avoiding contamination by refillable returnable containers. MFVU not serviced or cleaned daily at commissary or other approved facility.</u>	=	=	=	<u>10</u>	<u>28</u>
<b>5I</b>	<u>Signed original service contract or agreement with commissary or other approved facility not provided at pre-permit inspection; documents not kept on MFVU and made available for inspection.</u>	=	=	=	<u>10</u>	<u>28</u>
<b>5J+</b>	<u>Construction and design inadequate; adequate space, aisle and working spaces not provided or obstructed. Overhead structure not provided or constructed. Food truck not provided with partition or self-closing door between the driver's seat and the food operations. Ice cream truck not equipped with operational warning beeper and signage arm. Tamper proof locks or other food security mechanism not provided. Potable water tank or hand wash sink tank capacity inadequate.</u>	=	=	=	<u>10</u>	<u>28</u>
Food Worker Hygiene and Other Food Protection						
<b>6A</b>	<u>Personal cleanliness inadequate. Outer garment soiled with possible contaminate or not properly dressed; sleeveless garment or bare midriff worn. Effective hair restraint not worn when required. Jewelry worn on hands or arms, fingernail polish worn; or fingernails not kept clean and trimmed.</u>	<u>5</u>	<u>6</u>	<u>7</u>	<u>8</u>	=
<b>6B</b>	<u>Tobacco or e-cigarette use, eating, or drinking from open container in food preparation or other area where food, equipment or utensils may be exposed to contamination.</u>	<u>5</u>	<u>6</u>	<u>7</u>	<u>8</u>	=
<b>6C</b>	<u>Food, supplies or equipment not protected from potential sources of contamination during storage, preparation, transportation, display or service. Condiments not in single-service containers or dispensed directly by the vendor.</u>	<u>5</u>	<u>6</u>	<u>7</u>	<u>8</u>	=
<b>6D</b>	<u>Food contact surface not properly washed, rinsed and sanitized after any activity where contamination may have occurred.</u>	<u>5</u>	<u>6</u>	<u>7</u>	<u>8</u>	=
<b>6E</b>	<u>Sanitized equipment or utensil, including in-use food dispensing utensil, improperly used or stored.</u>	<u>5</u>	<u>6</u>	<u>7</u>	<u>8</u>	=
<b>6F</b>	<u>Wiping cloths soiled or not stored in sanitizing solution; inadequately sanitized.</u>	<u>5</u>	<u>6</u>	<u>7</u>	=	=

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<b>6K*</b>	MFVU left unattended longer than one-half hour.	=	=	=	=	28		
<b>6L</b>	Ice not stored until dispensed in the manufacturer's bag.			7		=		
<b>6N</b>	Toxic chemical or pesticide prohibited on non-vehicle MFVU	5	6	7	8	28		
<b>Other Criticals</b>								
<b>7A</b>	Duties of an officer of the Department interfered with or obstructed.	=	=	=	=	28		
						<b>Critical Violations Total:</b>		
<b>General Violations</b>		<b>Conditions</b>						
		<b>I</b>	<b>II</b>	<b>III</b>	<b>IV</b>	<b>V</b>		
<b>Garbage, Waste Disposal and Pest Management</b>								
<b>8A</b>	Harborage or conditions conducive to attracting pests to the MFVU.	=	=	4	5	=		
<b>8B</b>	Garbage receptacles not pest or water resistant, or covered with tight-fitting lids, except while in active use. Garbage receptacles and covers not cleaned after emptying and prior to reuse. Garbage, refuse and other solid and liquid waste not collected, stored, removed and properly discarded.	2	=	=	=	=		
<b>8C</b>	Pesticide use not in accordance with label or applicable laws. Pesticides are unauthorized for use. Unprotected, unlocked bait station used. Toxic chemical or pesticide prohibited on non-vehicle MFVU.	2	3	4	5	28		
<b>Food Protection</b>								
<b>9A</b>	Cans of food with dented body damage not segregated from other cans for return to distributor.	2	3	4	5	=		
<b>9B</b>	Thawing procedures improper.	2	3	4	5	=		
<b>9C</b>	Food contact surface chipped, crack, worn or in a condition where it cannot be properly maintained or cleaned.	2	3	4	5	=		
<b>9D</b>	MFVU used as a dwelling, sleeping or for residential purposes.	=	=	=	=	28		
<b>9E</b>	"Wash hands" sign not posted at hand wash facility.	2	=	=	=	=		
<b>Facility Maintenance</b>								
<b>10B</b>	Back-siphonage or back-flow prevention device not provided where required; equipment or floor not properly drained; sewage disposal system in disrepair or not functioning properly. Condensation or liquid waste improperly disposed of.	2	3	4	5	28		
<b>10C</b>	Lighting inadequate; permanent lighting not provided in food preparation areas, ware washing areas, and storage areas. No shatterproof bulbs or shield to prevent broken glass from falling into food or onto surfaces.	2	3	4	5	=		
<b>10D</b>	Mechanical or natural ventilation system not provided, improperly installed, in disrepair and/or fails to prevent excessive build-up of grease, heat, steam condensation vapors, odors, smoke, and fumes.	2	3	4	5	=		
<b>10E</b>	Accurate thermometer not provided or properly located in cold or hot holding equipment.	2	3	4	5	=		

\* Public Health Hazards (PHH) must be corrected immediately. + Pre-permit Serious Violations that must be corrected before permit is issued.



<b>10F</b>	<u>Non-food contact surface or equipment made of unacceptable material, not kept clean, and/or not properly sealed, raised, spaced or movable to allow accessibility for cleaning on all sides above and underneath equipment or other structures.</u>	<u>2</u>	<u>3</u>	<u>4</u>	<u>5</u>	=		
<b>10G</b>	<u>Proper sanitization not used or provided for ware washing operation. No test kit.</u>	=	=	=	<u>5</u>	=		
<b>10H</b>	<u>Single service items not provided. Single service items reused, not protected from contamination when transported, stored or dispensed. Drinking straws not completely enclosed in wrapper or dispensed from a sanitary device.</u>	<u>2</u>	<u>3</u>	<u>4</u>	<u>5</u>	=		
<b>10I</b>	<u>Failure to clean unit at commissary or approved facility at least daily</u>	=	=	=	=	<u>28</u>		
							<b>General Violations Total:</b>	
							<b>Critical and General Combined Total:</b>	

\* Public Health Hazards (PHH) must be corrected immediately. + Pre-permit Serious Violations that must be corrected before permit is issued.

**APPENDIX B - MOBILE FOOD VENDING UNIT (MFVU) INSPECTION SCORING PARAMETERS: A GUIDE TO CONDITIONS**

	<u>Violation</u>	<u>Condition I</u>	<u>Condition II</u>	<u>Condition III</u>	<u>Condition IV</u>	<u>Condition V</u>
<b>Critical Violations</b>						
<u>2A*</u>	<u>Time and temperature control for safety (TCS) food not cooked to required minimum internal temperature.</u>				<u>Failure to properly cook one or more meats, comminuted meats, and other TCS foods, unless a consumer specifically asks for a serving of food ordered to be cooked below the minimum temperature.</u>	<u>Failure to correct any condition of a public health hazard (PHH) at the time of inspection. Inspector must call office to discuss closing or other enforcement measures.</u>
<u>2B*</u>	<u>Hot TCS food item not held at or above 140° F.</u>	<u>One hot food item out of temperature in one area. Example: one tray of fried chicken wings held at 115° F.</u>	<u>Two hot food items out of temperature or the same type of food out of temperature in two different areas. Example: one tray of fried chicken wings and a pot of rice held at 115° F; or one tray of fried chicken wings on the steam table and one tray of fried chicken wings in the food preparation area.</u>	<u>Three hot food items out of temperature or the same type of food out of temperature in three different areas. Example: one tray of fried chicken wings, a pot of rice and platter of roast beef held at 115° F; or one tray of fried chicken wings on the steam table, one tray of fried chicken wings in the food preparation area and one basket of fried chicken near the deep fryer.</u>	<u>Four or more hot food items out of temperature or the same type of food out of temperature in four or more different areas. Example: one tray of fried chicken wings, a pot of rice, platter of roast beef and tureen of beef stew held at 115° F; or one tray of fried chicken wings on the steam table, one tray of fried chicken wings in the food preparation area, one basket of fried chicken near the deep fryer and a rotisserie broiler with eleven chickens held at 115° F.</u>	<u>Failure to correct any condition of a PHH at the time of inspection. Inspector must call office to discuss closing or other enforcement measures.</u>
<u>2C</u>	<u>Hot TCS food item that has been cooked and cooled is being held for service without first being reheated to 165° F or above for 15 seconds within 2 hours.</u>	<u>One cooked and cooled hot food item not reheated to 165° F before service. Example: chicken soup.</u>	<u>Two cooked and cooled hot food items not reheated to 165° F before service. Example: chicken soup and baked ham.</u>	<u>Three cooked and cooled hot food items not reheated to 165°F before service. Example: chicken soup, baked ham and sliced turkey.</u>	<u>Four or more cooked and cooled hot food items not reheated to 165° F before service. Example: baked ham, sliced turkey, meatloaf and lobster bisque.</u>	
<u>2D</u>	<u>Precooked TCS food in hermetically sealed and intact packages from commercial food processing and non-retail food processing establishments not heated to 140° F within 2 hours.</u>	<u>One precooked food item not heated to 140° F. Example: tray of beef patties.</u>	<u>Two pre-cooked food items not heated to 140° F. Example: one tray of beef patties and hotdogs.</u>	<u>Three pre-cooked food items not heated to 140° F. Example: two trays of beef patties, hotdogs, and vegetarian chorizo.</u>	<u>Four or more pre-cooked food items not heated to 140° F. Example: two trays of beef patties, hotdogs, vegetarian chorizo, and tofu.</u>	

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2E	<u>Whole frozen poultry or poultry breasts, other than a single portion, cooked frozen or partially thawed.</u>	<u>One whole chicken or poultry breast cooked from a frozen state.</u> <u>Example: whole chicken.</u>	<u>Two or more whole poultry or poultry breasts cooked from a frozen state.</u> <u>Example: chicken breast, whole chicken, turkey breast and duck.</u>	<b><u>Note: For failure to properly cook poultry to the required minimum temperature, 2A cited.</u></b>		
2F	<u>Meat, fish, poultry or eggs served or offered raw or undercooked without written consumer advisory.</u>	<u>Serving or offering raw or undercooked meat, fish, poultry or eggs without written consumer advisory.</u>				
2G*	<u>Cold TCS food item held above 41° F, processed fish above 38° F or intact raw eggs above 45° F.</u> <u>Applies except during necessary preparation.</u>	<u>One cold food item out of temperature in one area.</u> <u>Example: one slab of unsliced smoked salmon or packet or tray of smoked salmon slices above 38° F or one tray of cut leafy greens above 41° F in service display case.</u>	<u>Two cold food items out of temperature or the same food item out of temperature in two different areas.</u> <u>Example: one slab of smoked salmon above 38° F and one tray of sliced tomatoes above 41° F; or one bowl of potato salad in the service display case, and one bowl of potato salad in the food preparation area above 41° F.</u>	<u>Three cold food items out of temperature or the same food item out of temperature in three different areas.</u> <u>Example: one slab of smoked salmon above 38° F and tray of sliced tomatoes and platter of tuna salad above 41° F; or one bowl of potato salad in the service display case and one bowl of potato salad in the food preparation area and garlic in oil mixture above 41° F.</u>	<u>Four cold food items out of temperature or the same food item out of temperature in four different areas.</u> <u>Example: one slab of smoked salmon above 38° F and tray of sliced tomatoes, bowl of garlic in oil mixture, and bowl of cooked collard greens above 41° F; or one tray of potato salad in the service display case, one tray of potato salad in the reach-in refrigerator, and one tray of potato salad on the food preparation table above 41° F.</u>	<u>Failure to correct any condition of a PHH at the time of inspection.</u> <u>Inspector must call office to discuss closing or other enforcement measures.</u>
2H*	<u>After cooking or removal from hot holding, TCS food not cooled by an approved method whereby the internal temperature is reduced from 140° F to 70° F or less within 2 hours and from 70° F to 41° F or less within 4 additional hours.</u>	<u>One food item not cooled by approved method.</u> <u>Example: one whole fried turkey at 70° F after being refrigerated for four hours.</u>	<u>Two food items not cooled by approved method.</u> <u>Example: one whole fried turkey at 70° F after being refrigerated for four hours and a six-inch high container filled to within one inch of top with beef stew at 80° F after two hours of refrigeration.</u>	<u>Three food items not cooled by approved method.</u> <u>Example: one whole fried turkey at 70° F after being refrigerated for four hours and a six-inch high container filled to within one inch of top with beef stew at 80° F after two hours of refrigeration and six pound cooked beef rib roast not cut into smaller pieces before being placed in refrigerator to cool.</u>	<u>Four or more food items not cooled by approved method.</u> <u>Example: one whole fried turkey at 70° F after being refrigerated for four hours and a six-inch high container filled to within one inch of top with six inches of beef stew at 80° F after two hours of refrigeration and six pound cooked beef rib roast not cut into smaller pieces before being placed in refrigerator to cool and 18 inch high pot filled to within one inch of top with turkey chili at 85° F after three hours refrigeration.</u>	<u>Failure to correct any condition of a PHH at the time of inspection.</u> <u>Inspector must call office to discuss closing or other enforcement measures.</u>

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2l	<u>TCS food removed from cold holding or prepared from or combined with ingredients at room temperature not cooled by an approved method to 41° F or below within 4 hours.</u>	<u>One food item removed from cold holding and/or prepared from ambient temperature ingredients not cooled to 41°F.</u> Example: one container of tuna salad prepared with canned tuna.	<u>Two food items removed from cold holding and/or prepared from ambient temperature ingredients not cooled to 41°F.</u> Example: a container of tuna salad and a container of salmon salad prepared with canned tuna and salmon.	<u>Three food items removed from cold holding and/or prepared from ambient temperature ingredients not cooled to 41°F.</u> Example: tuna, chicken and salmon salads prepared with canned tuna, chicken and salmon.	<u>Four or more food items removed from cold holding and/or prepared from ambient temperature ingredients not cooled to 41°F.</u> Example: tuna, chicken, crab and salmon salads prepared with canned tuna, chicken, crab and salmon.	
3A*	<u>Food from unapproved or unknown source or home canned or home prepared. Live animal slaughtered and/or raw meat processed into smaller cuts or pieces in the MFVU. Ice not obtained in chipped, crushed, or cubed form and in single-use food grade plastic or wet-strength paper bag sealed at the point of manufacture.</u>				<u>One or more food items from unapproved or unknown source or home canned or home prepared. Raw meat processed into smaller cuts or pieces in the MFVU. Live animal slaughtered.</u> Example: wild mushrooms or home canned beets or home prepared meat balls, curry, rice or lasagna; or raw pork shoulder cut into smaller pieces on the MFVU. Ice not obtained in a food grade plastic bag.	<u>Failure to correct any condition of a PHH at the time of inspection. Inspector must call office to discuss closing or other enforcement measures.</u>
3B*	<u>Commercially manufactured, or processed shellfish not from approved source, or improperly tagged/labeled; tags not retained for 90 days on MFVU.</u>				<u>One or more containers or kind of cooked shellfish not from an approved source, not or improperly tagged/labeled; tags not retained for 90 days.</u> Example: clams not tagged, oyster tags not retained for 90 days, mussels improperly labeled and mussels not tagged.	<u>Failure to correct any condition of a PHH at the time of inspection. Inspector must call office to discuss closing or other enforcement measures.</u>
3C*	<u>Unclean or cracked whole eggs or unpasteurized liquid, frozen or powdered eggs kept or used.</u>	<u>1-6 unclean or cracked eggs or 1 container of liquid, frozen, or powdered eggs not pasteurized.</u> Example: four cracked eggs; or one container of unpasteurized liquid eggs.	<u>7-12 unclean or cracked eggs; or 2 containers of liquid, frozen, or powdered eggs not pasteurized.</u> Example: nine cracked eggs; or two containers of unpasteurized liquid eggs.	<u>13-24 unclean or cracked; or three containers of liquid, frozen, or powdered eggs not pasteurized.</u> Example: 24 unclean and/or cracked eggs; or 14 dirty unclean and/or cracked eggs and two containers of unpasteurized liquid eggs.	<u>25 or more unclean or cracked eggs; or four containers of unpasteurized liquid, frozen, or powdered eggs not pasteurized.</u> Example: 25 or more unclean and/or cracked eggs; or four containers of unpasteurized liquid eggs.	<u>Failure to correct any condition of a PHH at the time of inspection. Inspector must call office to discuss closing or other enforcement measures.</u>

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3D*	<u>Food packages, canned food, hermetically sealed container not suitable for human consumption. Packages swollen, leaking or rusted, without "Do Not Use" label or not segregated from other consumable food items.</u>	<u>1-6 cans of food swollen, leaking or rusted and not segregated from consumable food. Example: one can of tomato paste swollen and one can of salmon rusted and stored on food storage shelf.</u>	<u>7-12 cans of food swollen, leaking or rusted and not segregated from consumable food. Example: three cans of tomato paste swollen and two cans of salmon and two cans of mushrooms rusted and stored on food storage shelf.</u>	<u>13-18 cans of food swollen, leaking or rusted and not segregated from consumable food. Example: 10 cans of tomato paste swollen, two cans of salmon and two cans of mushrooms rusted and stored on food storage shelf.</u>	<u>19 or more cans of food swollen, leaking or rusted and not segregated from consumable food. Example: 10 cans of tomato paste swollen, two cans of salmon and two cans of mushrooms rusted, and 15 cans of baked beans leaking and stored on food storage shelf.</u>	<u>Failure to correct any condition of a PHH at the time of inspection. Inspector must call office to discuss closing or other enforcement measures.</u>
3E*	<u>No or inadequate potable water supply. Water or ice not potable or from unapproved source. Bottled water not NY State certified. Cross connection in potable water supply system.</u>				<u>No potable water. Potable water supply inadequate. Water or ice not potable or from unapproved source. Cross connection in potable water supply system.</u>	<u>Failure to correct any condition of a PHH at the time of inspection. Inspector must call office to discuss closing or other enforcement measures.</u>
3F*	<u>Unpasteurized milk or milk product (except certain aged cheese) served.</u>				<u>Unpasteurized milk or milk product served.</u>	<u>Failure to correct any condition of a PHH at the time of inspection. Inspector must call office to discuss closing or other enforcement measures.</u>
3G	<u>Raw fruit or vegetables not properly washed prior to cutting or serving.</u>	<u>One raw fruit or vegetable not properly washed prior to cutting or serving. Example: an apple.</u>	<u>Two raw fruits or vegetables not properly washed prior to cutting or serving. Example: two heads of lettuce.</u>	<u>Three raw fruits or vegetables not properly washed prior to cutting or serving. Example: two heads of lettuce and one head of broccoli.</u>	<u>Four or more raw fruits or vegetables not properly washed prior to cutting or serving. Example: two heads of lettuce, one head of broccoli and one head of cabbage.</u>	
3H*	<u>Raw meat, fish, or shellfish stored, prepared, served or sold on MFVU.</u>				<u>Raw meat, fish, or shellfish stored, prepared, served or sold on MFVU. Example: Vending raw fish or preparing and serving steak tartare from MFVU.</u>	<u>Failure to correct any condition of a PHH at the time of inspection. Inspector must call office to discuss closing or other enforcement measures.</u>
3J*	<u>Unpasteurized juice packaged and sealed on MFVU or commissary not labeled or label</u>				<u>One or more packaged juice products not or improperly labeled. Example: orange and carrot juice produced and bottled with</u>	<u>Failure to correct any condition of a PHH at the time of inspection. Inspector must call</u>

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	<u>incomplete; no warning statement.</u>				<u>sealed cap by the MFVU without a label or only a partial label.</u>	<u>office to discuss embargoing product, closing or other enforcement measures.</u>
4B*	<u>Food worker or vendor spits; prepares food or touches utensil when ill with a disease transmissible by food or has exposed infected cut or burn on hand.</u>				<u>Food worker or vendor spits; prepares food or handles utensil when ill with a disease transmissible by food or has exposed infected cut or burn on hand.</u>	<u>Failure to correct any condition of a PHH at the time of inspection. Inspector must call office to discuss closing or other enforcement measures.</u>
4C*	<u>Food worker or vendor does not use utensil or other barrier to eliminate bare hand contact with food that will not receive adequate additional heat treatment.</u>	<u>One vendor preparing ready-to-eat food with bare hands. Example: one vendor at front food preparation area preparing a sandwich.</u>	<u>Two vendors preparing ready-to-eat foods with bare hands. Example: one vendor at front food preparation area preparing a sandwich and one vendor preparing Caesar salad.</u>	<u>Three vendors preparing ready-to-eat foods with bare hands. Example: one vendor at food preparation area preparing a sandwich, one vendor preparing Caesar salad and one vendor preparing shrimp cocktail.</u>	<u>Four or more vendors preparing ready-to-eat foods with bare hands. Example: two vendor at front food preparation area preparing sandwiches, one vendor preparing Caesar salad and one vendor preparing shrimp cocktail.</u>	<u>Failure to correct any condition of a PHH at the time of inspection. Inspector must call office to discuss closing or other enforcement measures.</u>
4D*	<u>Food worker or vendor does not wash hands thoroughly after using the toilet, coughing, sneezing, smoking, eating, or otherwise contaminating hands or does not change gloves when gloves are contaminated.</u>				<u>Vendor does not wash hands after using the toilet, coughing, sneezing, smoking, preparing raw foods or otherwise contaminating hands or does not change gloves when gloves are contaminated.</u>	<u>Failure to correct any condition of a PHH at the time of inspection. Inspector must call office to discuss closing or other enforcement measures.</u>
4E*	<u>Toxic chemicals or pesticides improperly labeled, stored or used such that contamination of food may occur.</u>				<u>One toxic chemical or pesticide improperly labeled, stored or used such that contamination of food may occur. Example: roach spray stored on shelf with hot dog rolls.</u>	<u>Two toxic chemicals or pesticides improperly labeled, stored or used such that contamination of food may occur. Example: roach spray and bleach stored on shelf with hot dog rolls.</u>

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4F*	<u>Food, food preparation area, food storage area, or other area used by food worker or food vendor contaminated by sewage or liquid waste.</u>				<u>Food, or food preparation or food storage area, or any area used by employees or patrons, contaminated by sewage or liquid waste.</u>	<u>Failure to correct any condition of a PHH at the time of inspection. Inspector must call office to discuss closing or other enforcement measures.</u>
4G*	<u>Unprotected TCS food re-served.</u>				<u>Unprotected TCS food re-served. Example: bowl of cooked rice re-served to other patron.</u>	<u>Failure to correct any condition of a PHH at the time of inspection. Inspector must call office to discuss closing or other enforcement measures.</u>
4H*	<u>Raw, cooked or prepared food is adulterated, contaminated or cross-contaminated. Food exposed to contamination when containers stored in cooking water.</u>	<u>One food item is spoiled, adulterated, contaminated or cross-contaminated. Example: lettuce contaminated by raw chicken or custard cream contaminated by mice droppings.</u>	<u>Two food items or two containers of the same food located in two areas noted spoiled, adulterated, contaminated or cross-contaminated. Example: lettuce and cooked chicken contaminated by raw chicken; or adulterated sausage and fish.</u>	<u>Three food items or three containers of the same food type located in three areas noted spoiled, adulterated, contaminated or cross-contaminated. Example: lettuce, cooked chicken and raw eggs contaminated by raw chicken; or lettuce, tomatoes and figs contaminated by non-potable water; or a tray of chicken contaminated with mice droppings in low boy refrigerator, a basket of chicken under the deep fat fryer contaminated with dust and debris, and a pan of chicken on the service counter cross-contaminated with raw beef drippings.</u>	<u>Four or more food items or four or more containers of the same food type in different areas noted spoiled, adulterated, contaminated or cross-contaminated. Example: lettuce, cooked chicken, raw eggs and cooked rice contaminated by raw chicken; or a tray of chicken contaminated with mice droppings in low boy refrigerator, a basket of chicken under the deep fat fryer contaminated with dust and debris, a pan of chicken on the service counter cross-contaminated with raw beef drippings and chicken contaminated by mice droppings, pigeon eating croutons from salad on MFVU.</u>	<u>Failure to correct any condition of a PHH at the time of inspection. Inspector must call office to discuss closing or other enforcement measures.</u>
4I	<u>Unprotected non-TCS food re-served.</u>	<u>One unprotected food item re-served. Example: unwrapped crackers.</u>	<u>Two unprotected foods items re-served. Example: unwrapped crackers and bread.</u>	<u>Three unprotected food items re-served. Example: unwrapped crackers, bread and pickles.</u>	<u>Four or more unprotected food items re-served. Example: unwrapped crackers, bread, pickles and breadsticks.</u>	

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4J	Properly calibrated thermometer or thermocouple not provided or not readily accessible in food preparation, hot/cold holding areas, to measure temperatures of TCS foods during cooking, cooling, reheating and holding.	Properly calibrated thermometer or thermocouple not provided, or readily accessible to measure temperature of TCS foods.				
4K	Evidence of rats or live rats in establishment's food and/or non-food areas.	Rats or evidence of rats in the MFVU's food or non-food areas. Example: 1-10 fresh rat dropping in the MFVU.	Rats or evidence of rats in the unit's food or non-food areas, demonstrated by 11-30 fresh rat droppings in the MFVU.	Rats or evidence of rats in the MFVU's food or non-food areas, demonstrated by 31-70 rat droppings in the MFVU.	Rats or evidence of rats in the MFVU's food or non-food areas, demonstrated by 1-2 live rats and/or 71-100 rat droppings in the MFVU.	Three or more live rats and/or more than 100 rat droppings; and/or other conditions conducive to infestation of rats, e.g., holes/openings, water, food, unused equipment/material. Inspector must call office to discuss closing or other enforcement measures.
4L	Evidence of mice or live mice in MFVU's food and/or non-food areas.	Mice or evidence of mice in the MFVU's food or non-food areas; 1-10 fresh mice droppings. Example: 8 fresh mice droppings in the MFVU.	Mice or evidence of mice in the MFVU's food or non-food areas. 11-30 fresh mice droppings. Example: 25 fresh mice droppings in the MFVU.	Mice or evidence of mice in the MFVU's food or non-food areas. 31-70 mice droppings. Example: 55 mice droppings in the MFVU.	Mice or evidence of mice in the MFVU's food or non-food areas; 1-2 live mice and/or 71-100 mice droppings. Example: 80 mice droppings in the MFVU.	Two or more live mice and/or more than 100 mice droppings and/or other conditions exist conducive to infestation of mice, e.g., holes/openings, water, food, unused equipment/material. Inspector must call office to discuss closing or other enforcement measures.

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4M	<u>Live roaches in MFVU's food and/or non-food areas.</u>	<u>1-5 roaches in the MFVU's food and non-food areas.</u> <u>Example: 2 live roaches in the dry food area.</u>	<u>Roaches in the MFVU's food and and/or non-food areas. 6-10 roaches.</u> <u>Example: seven live roaches in the MFVU.</u>	<u>Roaches in the MFVU's food and/or non-food areas; 11-15 roaches.</u> <u>Example: 12 live roaches in the MFVU.</u>	<u>Roaches in the MFVU's food and non-food areas; 16-20 roaches.</u> <u>Example: 17 live roaches in the MFVU.</u>	<u>More than 20 live roaches and/or other conditions exist conducive to infestation of roaches.</u> <u>Example: 45 live roaches and condition conducive to infestation such as holes/openings, water, food, unused equipment/material.</u> <u>Inspector must call office to discuss closing or other enforcement measures.</u>
4N	<u>Filth flies or food/refuse/sewage associated (FRSA) flies or other nuisance pests in MFVU's food and/or non-food areas. FRSA flies include house flies, blow flies, bottle flies, flesh flies, drain flies, Phorid flies and fruit flies.</u>	<u>1-5 filth flies or FRSA flies in the MFVU during November 1 through March 1.</u> <u>Example: two flies in the MFVU in January.</u>	<u>6-10 filth flies or FRSA flies in the MFVU area.</u> <u>Example: seven live flies in the MFVU.</u>	<u>11-15 filth flies or FRSA flies in the MFVU. Example: 12 live flies in the MFVU.</u>	<u>16-20 filth flies or FRSA flies in the MFVU.</u> <u>Example: 17 filth flies in the MFVU.</u>	<u>More than 30 filth flies, FRSA flies and/or other conditions exist conducive to infestation of filth flies.</u> <u>Example: 40 flies in the MFVU; and other conditions exist conducive to filth fly infestation, e.g., openings to the outer air, water, food, decaying matter and/or sewage.</u> <u>Inspector must call office to discuss closing or other enforcement measures.</u>
4O	<u>Live animal other than fish in tank or service animal present in MFVU food and/or non-food area.</u>	<u>One live animal in the MFVU. Example: Live cat within the food truck.</u>	<u>Two live animals in the MFVU.</u> <u>Example: Two live birds in the food truck.</u>	<u>Three live animals in the MFVU.</u> <u>Example: Three cockatoos in a cage in the food truck.</u>	<u>Four or more live animals in the MFVU.</u> <u>Example: Two caged cockatoos and two live cats in the food truck.</u>	

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5A*	<u>Sewage disposal system is not provided, improper, inadequate or unapproved. Waste tank not provided with a readily accessible vented check valve.</u>				<u>No sewage disposal system. Sewage or liquid waste is not disposed of in an approved or sanitary manner; or readily accessible check vented check valve not installed or inoperable.</u>	<u>Failure to correct any condition of a PHH at the time of inspection. Inspector must call office to discuss closing or other enforcement measures.</u>
5B*	<u>Harmful, noxious gas or vapor detected. Carbon Monoxide (CO) level at or exceeding nine (9) ppm.</u>				<u>Harmful, noxious gas or vapor detected. CO level at or exceeding nine (9) ppm.</u>	<u>Failure to correct any condition of a PHH at the time of inspection. Inspector must call office to discuss closing or other enforcement measures.</u>
5C+	<u>Food contact surface or equipment improperly constructed, placed or maintained. Unacceptable material used. Culinary sink or other acceptable method not provided for washing food. Potable water tank and plumbing improperly constructed or designed.</u>	<u>One food contact surface or piece of equipment improperly constructed, maintained, placed and/or unacceptable material used. Example: painted shelves in a low boy refrigerator unit.</u>	<u>Two food contact surfaces or pieces of equipment improperly constructed, placed, maintained, and/or unacceptable material used. Example: painted shelves in allow boy refrigerator unit and cutting board made from untreated wood.</u>	<u>Three food contact surfaces or pieces of equipment improperly constructed, placed, maintained and/or unacceptable material used. Example: painted shelves of a low boy unit, cutting board made from untreated wood and acidic foods placed in pewter bowl.</u>	<u>Four or more food contact surfaces or pieces of equipment improperly constructed, placed, maintained, and/or unacceptable material used. Example: painted shelves of a low boy refrigerator unit, cutting board made from untreated wood, acidic foods placed in pewter bowl and solder and flux used to repair food contact equipment or no culinary sink or other acceptable method provided for washing food.</u>	<u>Failure to correct as pre-permit serious (PPS) violation or on any inspection results in a follow up inspection, and/or closure. Inspector must call office to discuss closing or other enforcement measures.</u>
5D+	<u>No hand wash facility or hand wash facility not accessible, obstructed or used for non-hand washing purposes. No hot and cold running water or water at inadequate pressure. No soap or acceptable hand-drying device.</u>				<u>Fully equipped hand wash sinks, to include soap and hand drying device or disposable single use towels, not provided or hand wash sink not accessible or obstructed. No potable water or water inadequate pressure at hand wash sink.</u>	<u>Failure to correct as pre-permit serious (PPS) violation or on any inspection results in a follow up inspection, and/or closure. Inspector must call office to discuss closing or other enforcement measures.</u>

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5F+	<u>Inadequate or no refrigerated or hot holding equipment to maintain Time/Temperature Control for Safety (TCS) foods at required temperatures.</u>		<u>Refrigerated or hot holding equipment for TCS food inadequate or not provided.</u>	<u>Failure to correct as pre-permit serious (PPS) violation or on any inspection results in a follow up inspection, and/or closure. Inspector must call office to discuss closing or other enforcement measures.</u>
5H+	<u>No facilities available to wash, rinse, and sanitize utensils or equipment and/or refillable returnable containers. No approved written standard operating procedure for avoiding contamination by refillable returnable containers. MFVU not serviced or cleaned daily at commissary or other approved facility.</u>		<u>No facilities available to wash rinse and sanitize utensils or equipment and/or refillable returnable containers. No approved written standard operating procedure for avoiding contamination by refillable returnable containers. MFVU not serviced or cleaned daily at commissary or other approved facility.</u>	<u>Failure to correct as pre-permit serious (PPS) violation or on any inspection results in a follow up inspection, and/or closure. Inspector must call office to discuss closing or other enforcement measures.</u>
5I	<u>Signed original service contract or agreement with commissary or other approved facility not provided at pre-permit inspection; documents not kept on MFVU and available for inspection.</u>		<u>Signed original service contract or agreement with commissary or other approved facility not provided at pre-permit inspection; documents not kept on MFVU and available for inspection.</u>	<u>Failure to correct as pre-permit serious (PPS) violation on an initial inspection, re-inspection, or compliance on any inspection results in a follow up inspection, and/or closure. Inspector must call office to discuss closing or other enforcement measures.</u>

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5J+	<p><u>Construction and design inadequate; adequate space, aisle and working spaces not provided or obstructed. Overhead structure not provided or constructed. Food truck not provided with partition or self-closing door between the driver's seat and the food operations. Ice cream truck not equipped with operational warning beeper and signage arm. Tamper proof locks or other food security mechanism not provided. MFVU exceeds size requirements. Potable water tank or hand wash sink tank capacity inadequate.</u></p>				<p><u>Construction and design inadequate, adequate space, aisle and working spaces not provided or obstructed. Overhead structure not provided or constructed. Food truck not provided with partition or self-closing door between the driver's seat and the food operations. Ice cream truck not equipped with operational warning beeper and signage arm. Tamper proof locks or other food security mechanism not provided. Hand wash water tank improperly constructed or designed to be drained by gravity.</u></p>	<p><u>Failure to correct as pre-permit serious (PPS) violation on an initial inspection, re-inspection, or compliance on any inspection results in a follow up inspection, and/or closure. Inspector must call office to discuss closing or other enforcement measures.</u></p>
6A	<p><u>Personal cleanliness inadequate. Outer garment soiled with possible contaminate or not properly dressed; sleeveless garment or bare midriff worn. Effective hair restraint not worn when required. Jewelry worn on hands or arms, fingernail polish worn; or fingernails not kept clean and trimmed.</u></p>	<p><u>One vendor without clean outer garment or hair restraint or wearing prohibited clothing, jewelry or fingernail polish, or fingernails not kept clean and trimmed.</u></p>	<p><u>Two vendors without clean outer garment or hair restraint or wearing prohibited clothing, jewelry or fingernail polish, or fingernails not kept clean and trimmed.</u></p>	<p><u>Three vendors without clean outer garment or hair restraint or wearing prohibited clothing, jewelry or fingernail polish, or fingernails not kept clean and trimmed.</u></p>	<p><u>Four or more vendors without clean outer garment or hair restraint or wearing prohibited clothing, jewelry or fingernail polish, or fingernails not kept clean and trimmed.</u></p>	
6B	<p><u>Tobacco or e-cigarette use, eating, or drinking from open container in food preparation or other area where food, equipment or utensils may be exposed to contamination.</u></p>	<p><u>One vendor eating, smoking and/or drinking from open container in food preparation or ware washing areas or other area where food equipment or utensils may be exposed to contamination. Example: Vendor eating in the food preparation area.</u></p>	<p><u>Two vendors eating, smoking and/or drinking from open container in food preparation or ware washing areas or other area where food equipment or utensils may be exposed to contamination. Example: One vendor eating in the food preparation area and one</u></p>	<p><u>Three vendors eating, smoking and/or drinking from open container in food preparation or ware washing areas or other area where food equipment or utensils may be exposed to contamination. Example: One vendor eating in the food preparation area, one vendor smoking by the coffee machine, and one</u></p>	<p><u>Four vendors eating, smoking and/or drinking from open container in food preparation or ware washing areas or other area where food equipment or utensils may be exposed to contamination. Example: One vendor eating in the food preparation area, one vendor smoking by the coffee machine, one vendor drinking from an open container, and</u></p>	

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			<u>vendor smoking by the coffee machine.</u>	<u>vendor drinking from an open container.</u>	<u>one vendor smoking an e-cigarette while serving food.</u>
<u>6C</u>	<u>Food, supplies or equipment not protected from potential source of contamination during storage, preparation, transportation, display or service. Condiments not in single-service containers or dispensed directly by the vendor.</u>	<u>One food item not protected during storage, preparation, transportation, display or service. Example: one tray of uncovered assorted pastries or supply of wax paper used to wrap bagels stored under the waste water tank.</u>	<u>Two food items not protected during storage, preparation, transportation, display or service. Example: one tray of uncovered pastries and one cooked steak on prep table under fly strip.</u>	<u>Three food items not protected during storage, preparation, transportation, display or service. Example: one tray of uncovered pastries; one cooked steak on prep table under fly strip and fresh cut fruit in the service window.</u>	<u>Four or more food items not protected during storage, preparation, transportation, display or service. Example: one tray of uncovered pastries; wax paper used to wrap bagels stored under the waste water tank; one cooked steak on kitchen prep table under fly strip, and fresh cut fruit in the service window.</u>
<u>6D</u>	<u>Food contact surface not properly washed, rinsed and sanitized after any activity where contamination may have occurred.</u>	<u>One food contact surface not washed, rinsed or sanitized after any activity where contamination may have occurred. Example: Meat slicer blade encrusted with old food debris.</u>	<u>Two food contact surfaces not washed, rinsed or sanitized after any activity where contamination may have occurred. Example: Meat slicer blade encrusted with old food debris and cutting board encrusted with old food debris.</u>	<u>Three food contact surfaces not properly washed, rinsed or sanitized after any activity where contamination may have occurred. Example: Meat slicer blade, wooden cutting board, and can opener encrusted with old food debris.</u>	<u>Four or more food contact surfaces not properly washed, rinsed or sanitized after any activity where contamination may have occurred; not free of accumulated contaminants. Example: Meat slicer blade, wooden cutting board, can opener, and food preparation table encrusted with old food debris, and the interior of the ice bin contaminated with mold.</u>
<u>6E</u>	<u>Sanitized equipment or utensil, including in-use food dispensing utensil, improperly used or stored.</u>	<u>One sanitized piece of equipment or utensil improperly used or stored. Example: in-use ice scoop on top of ice storage container.</u>	<u>Two sanitized pieces of equipment or utensils improperly used or stored. Example: in-use ice scoop on top of ice storage container and knives stored between food preparation table and wall.</u>	<u>Three sanitized pieces of equipment or utensils improperly used or stored. Example: in-use ice scoop on top of ice storage container; clean sanitized knives stored between food preparation table and wall; and in-use food utensils in container of water not heated to 135° F.</u>	<u>Four or more sanitized pieces of equipment or utensils improperly used or stored. Example: in-use ice scoop on top of ice storage container; clean sanitized knives stored between food preparation table and wall, in-use food utensils in container of water not heated to 135° F; and clean and sanitized food tags stored in cash register.</u>

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6F	<u>Wiping cloths soiled or not stored in sanitizing solution; inadequately sanitized.</u>	<u>Wiping cloth soiled or not stored in sanitizing solution; or inadequately sanitized. Example: one wiping cloth used to clean food contact surfaces not stored in sanitizing solution; or test kit to measure sanitizing solution to ensure proper sanitization of wiping cloths not provided; or sanitizer solution not at appropriate level to effectively remove contaminants from wiping cloths.</u>	<u>Any two of: Wiping cloths soiled or not stored in sanitizing solution; or inadequately sanitized. Example: one or more wiping cloths used to clean food contact surfaces not stored in sanitizing solution and the test kit to measure sanitizing solution to ensure proper sanitization of wiping cloths not provided.</u>	<u>Wiping cloths soiled and not stored in sanitizing solution; and inadequately sanitized. Example: one or more wiping cloths used to clean food contact surfaces are not stored in sanitizing solutions, the test kit to measure sanitizing solution to ensure proper sanitization of wiping cloths not provided and sanitizer solution not at appropriate level to effectively remove contaminants from wiping cloths.</u>		
6K*	<u>MFVU left unattended longer than one-half hour.</u>				<u>MFVU left unattended longer than one-half hour. Failure to correct any condition of a PHH at the time of inspection. Inspector must call office to discuss closing or other enforcement measures.</u>	
6L	<u>Ice not stored until dispensed in the manufacturer's bag.</u>				<u>Ice not stored until dispensed in the manufacturer's bag. Example: crushed ice stored in bin outside of manufacturer's bag</u>	
6N	<u>Toxic chemical or pesticide prohibited on non-vehicle MFVU.</u>	<u>One toxic chemical or pesticide prohibited on non-vehicle MFVU Example: Bleach on the MFVU</u>	<u>Two toxic chemicals or pesticides prohibited on non-vehicle MFVU Example: bleach on the MFVU and anti-freeze in the food preparation area</u>	<u>Three toxic chemicals or pesticides prohibited on non-vehicle MFVU Example: bleach on the MFVU; anti-freeze in the food preparation area and gasoline in the food storage bins</u>	<u>Four toxic chemicals or pesticides prohibited on non-vehicle MFVU Example: bleach on the MFVU; anti-freeze in the food preparation area; gasoline in the food storage bins and butane in the food shelf</u>	<u>Five or more toxic chemicals or pesticides prohibited on non-vehicle MFVU. Failure to correct any condition at the time of inspection. Inspector must call office to discuss</u>

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						<u>closing or other enforcement measures.</u>
<u>7A</u>	<u>Duties of an officer of the department interfered with or obstructed.</u>					<u>Duties of an officer of the department interfered with or obstructed. Inspector must call office to discuss closing or other enforcement measures.</u>
<b><u>General Violations</u></b>						
<u>8A</u>	<u>Harborage or conditions conducive to attracting pests to the MFVU.</u>			<u>Doors and door thresholds not adequately pest proofed, and/or one or two openings in the MFVU's structure (walls, floors, ceilings) and/or other condition conducive to pest entry or breeding when pests or signs of pests are present.</u>	<u>Doors and door thresholds not adequately pest proofed, with quality materials, and/or three or more openings in the MFVU structure (walls, floors, ceilings) or other condition conducive to pest entry or breeding when pests or signs of pest are present.</u>	
<u>8B</u>	<u>Garbage receptacles not pest or water resistant, or covered with tight-fitting lids, except while in active use. Garbage receptacles and covers not cleaned after emptying and prior to reuse. Garbage, refuse and other solid and liquid waste not collected, stored, removed and properly discarded.</u>	<u>Garbage equipment and facilities not maintained or provided. Example: Garbage and liquid waste not disposed of at commissary; covers not cleaned after emptying and before reuse; garbage and consumer litter discarded on public streets and public trash cans.</u>				
<u>8C</u>	<u>Pesticide use not in accordance with label or applicable laws. Pesticides are unauthorized for use. Unprotected, unlocked bait station used. Toxic</u>	<u>One prohibited pesticide, chemical or bait station on non-vehicle MFVU or not used in accordance with label or applicable laws.</u>	<u>Two types of prohibited pesticides, chemicals or bait stations on non-vehicle MFVU or not used in accordance with label or applicable laws.</u>	<u>Three types of prohibited pesticides, chemicals or bait stations on non-vehicle MFVU or not used in accordance with label or applicable laws.</u>	<u>Four or more types of prohibited pesticides, chemicals or bait stations on non-vehicle MFVU or not used in accordance with label or applicable laws.</u>	<u>Failure to correct. Inspector must call office to discuss enforcement measures.</u>

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	<u>chemical or pesticide prohibited on non-vehicle MFVU.</u>					
9A	<u>Cans of food with dented body damage not segregated from other cans for return to distributor.</u>	<u>1-6 cans dented. Example: one dented can of tomato paste stored on food storage shelf not segregated.</u>	<u>7-12 cans dented. Example: seven dented cans of tomato paste stored on food storage shelf not segregated.</u>	<u>13-24 cans dented. Example: seven dented cans of tomato paste and six dented cans of soy sauce stored on food storage shelf not segregated.</u>	<u>25 or more cans dented. Example: seven dented cans of tomato paste, ten dented cans of soy sauce, and five dented cans of tuna fish stored on food storage shelf not segregated.</u>	
9B	<u>Thawing procedures improper.</u>	<u>One frozen food item improperly thawed. Example: whole chicken or beefsteak improperly thawed.</u>	<u>Two frozen food items improperly thawed or the same type of food improperly thawed in two different areas. Example: two chickens and beefsteak improperly thawed or chicken breast improperly thawed in sink and chicken legs thawed on food preparation counter.</u>	<u>Three frozen food items improperly thawed or the same type of food improperly thawed in three different areas. Example: three chickens, beefsteak, and pork shoulder improperly thawed; or chicken breast improperly thawed in sink, chicken legs improperly thawed on food preparation counter, and chicken breast improperly thawed in bowl in food preparation area.</u>	<u>Four or more frozen food item improperly thawed or the same type of food improperly thawed in four different areas. Example: four chickens, chicken breast, beefsteak, and shrimp improperly thawed; or chicken breast improperly thawed in sink, chicken legs improperly thawed on kitchen counter, chicken breast improperly thawed in bowl in food preparation area, and chicken wings improperly thawed near the deep fat fryer.</u>	
9C	<u>Food contact surface chipped, crack, worn or in a condition where it cannot be properly maintained or cleaned.</u>	<u>One food contact surface not properly maintained. Example: one cutting board discolored.</u>	<u>Two food contact surfaces not properly maintained. Example: one cutting board discolored and one plastic cutting board pitted and scratched.</u>	<u>Three food contact surfaces not properly maintained. Example: three cutting boards pitted and scratched.</u>	<u>Four or more contact surfaces not properly maintained. Example: three cutting board pitted and scratched and four cutting boards at the food preparation area discolored.</u>	
9D	<u>MFVU used as a dwelling, sleeping or for residential purposes.</u>					<u>MFVU used as a dwelling, sleeping or for residential purposes.</u>
9E	<u>"Wash hands" sign not posted at hand wash facility.</u>	<u>"Wash hands" sign not posted at hand wash facility.</u>				

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10B	<u>Back-siphonage or back-flow prevention device not provided where required; equipment or floor not properly drained; sewage disposal system in disrepair or not functioning properly. Condensation or liquid waste improperly disposed of.</u>	<u>One back-flow prevention device not installed, or equipment or floor not properly drained. Example: vacuum breaker not installed on potable water line connected to the coffee machine or waste water tank draining into a bucket.</u>	<u>Two back-flow prevention devices not installed, or equipment or floor not properly drained. Example: vacuum breaker not installed on potable water line connected to the coffee machine waste water tank drained into a bucket and steam table draining onto sidewalk.</u>	<u>Three back-flow prevention devices not installed, or equipment or floor not properly drained. Example: waste water tank draining into bucket, steam table draining onto sidewalk and no vacuum breaker provided on the hose connected to faucet.</u>	<u>Four or more back-flow prevention devices not installed or equipment or floor not properly drained. Example: waste water tank draining into bucket, hot holding unit draining onto sidewalk and no vacuum breaker provided on the hose connected to faucet or ice machine or vacuum breaker not installed on potable water line connected to the coffee machine.</u>	<u>Five or more back-flow prevention devices not installed or equipment or floor not properly drained. Example: waste water tank draining into bucket, hot holding unit draining onto sidewalk, no vacuum breaker provided on the hose connected to faucet, vacuum breaker not installed on potable water line connected to the coffee machine; and no vented check valve on the main water supply pipe.</u>
10C	<u>Lighting inadequate; permanent lighting not provided in food preparation areas, ware washing areas, and storage areas. No shatterproof bulbs or shield to prevent broken glass from falling into food or onto surfaces.</u>	<u>One instance of inadequate lighting. Example: lighting at work surface of food preparation table is 323 lux.</u>	<u>Two instances of inadequate lighting. Example: lighting at food prep table work surface table is 323 lux, and 108 lux at surface of food service counter.</u>	<u>Three instances of inadequate lighting. Example: illumination of food prep table work surface table is 323 lux, 108 lux at surface of food service counter and 54 lux in refrigeration unit</u>	<u>Four or more instances of inadequate lighting. Example: illumination of food prep table work surface table is 323 lux, 108 lux at surface of food service counter buffet, 54 lux in refrigeration unit and 70 lux in storage area.</u>	
10D	<u>Mechanical or natural ventilation system not provided, improperly installed, in disrepair and/or fails to prevent excessive build-up of grease, heat, steam condensation vapors, odors, smoke, and fumes.</u>	<u>One mechanical ventilation system not provided or inadequate. Example: no mechanical ventilation provided to remove excess fumes</u>	<u>Two mechanical ventilation systems not provided or inadequate. Example: no ventilation provided or exhaust hood not sufficient to remove excess fumes in kitchen.</u>	<u>Three mechanical or natural ventilation systems not provided or inadequate. Example: no ventilation provided exhaust hood not sufficient to remove excess fumes in kitchen and grease collecting on walls.</u>	<u>Four mechanical or natural ventilation systems not provided or inadequate. Example: no ventilation provided, or exhaust hood not sufficient to remove excess fumes in kitchen, grease collecting on walls, and smoke from smokehouse drifting into adjacent building.</u>	

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10E	<u>Accurate thermometer not provided or properly located in cold or hot holding equipment.</u>	<u>One cold or hot holding unit not provided with accurate thermometer to measure the temperature in the warmest part of the cold holding unit or coolest part of the hot storage unit.</u>	<u>Two cold or hot holding units not provided with accurate thermometers to measure the temperature in the warmest part of the cold holding unit or coolest part of the hot storage unit.</u>	<u>Three cold or hot holding units not provided with accurate thermometers to measure the temperature in the warmest part of the cold holding unit or coolest part of the hot storage unit.</u>	<u>Four cold or hot holding units not provided with accurate thermometers to measure the temperature in the warmest part of the cold holding unit or coolest part of the hot storage unit.</u>
10F	<u>Non-food contact surface or equipment made of unacceptable material, not kept clean, and/or not properly sealed, raised, spaced or movable to allow accessibility for cleaning on all sides above and underneath equipment or other structures.</u>	<u>Non-food contact surface or equipment made of unacceptable material, not kept clean and/or not properly sealed, raised, spaced or movable to allow accessibility for cleaning on all sides, above and underneath equipment or other structures. Example: wall in food preparation area made of material not easily cleaned.</u>	<u>Non-food contact surfaces or equipment made of unacceptable material, not kept clean and/or not properly sealed, raised, spaced or movable to allow accessibility for cleaning on all sides, above and underneath equipment or other structures. Example: wall in food preparation area made of material not easily cleaned and build-up of grease on the wall adjacent to permanently installed convection oven which is not easily moveable or properly spaced to allow cleaning.</u>	<u>Non-food contact surfaces or equipment made of unacceptable material, not kept clean and/or not properly sealed, raised, spaced or movable to allow accessibility for cleaning on all sides, above and underneath equipment or other structures. Example: wall in food preparation area made of material not easily cleaned, build-up of grease on the wall adjacent to permanently installed convection oven which is not easily moveable or properly spaced to allow cleaning, and dried encrusted grease and old food debris under the refrigeration unit which is not properly sealed to the floor.</u>	<u>Non-food contact surfaces or equipment made of unacceptable material, not kept clean and/or not properly sealed, raised, spaced or movable to allow accessibility for cleaning on all sides, above and underneath equipment or other structures. Example: wall in food preparation area made of cork, a material not easily cleanable, build-up of grease on the wall adjacent to permanently installed convection oven which is not easily moveable or properly spaced to allow cleaning, dried encrusted grease and old food debris under the refrigeration unit which is not properly sealed to the floor, and a rug in the food storage area.</u>
10G	<u>Proper sanitization not used or provided for ware washing operation. No test kit.</u>				<u>Sanitization inadequate for manual ware washing.</u>
10H	<u>Single service items not provided. Single service items reused, not protected from contamination when transported, stored or dispensed. Drinking straws not completely enclosed in wrapper or dispensed from a sanitary device.</u>	<u>One type of single service item reused, not protected from contamination when transported, stored, dispensed or not used when required. Example: drinking straws not protected from contamination.</u>	<u>Two types of single service items reused not protected from contamination when transported, stored, dispensed or not used when required. Example: drinking straws not properly dispensed and paper plates not protected from contamination.</u>	<u>Three types of single service items reused, not protected from contamination when transported, stored, dispensed, not used when required. Example: drinking straws not properly dispensed, paper plates not protected from contamination and forks not</u>	<u>Four or more types of single service items reused,] not protected from contamination when transported, stored, dispensed, not used when required. Example: drinking straws not properly dispensed, paper plates not protected from contamination, forks not protected from contamination.</u>

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				<u>protected from contamination.</u>	<u>plastic forks reused, customer is served soda in a glass.</u>	
<u>101</u>	<u>Failure to clean unit at commissary or approved facility at least daily</u>					<u>Failure to clean unit at commissary or approved facility at least daily</u>

Note: When examples are provided to illustrate the kinds of violations included in a condition level, the examples are not intended to cover all the possible violations of the applicable Health Code or other law cited. These examples are only intended to help establishment operators to determine the extent of their violations.

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**APPENDIX 6-C MOBILE FOOD VENDING UNIT (MFVU) PENALTY SCHEDULE**  
**SCORED VIOLATIONS**

<u>VIOLATION CODE</u>	<u>CITATION</u>	<u>CATEGORY</u>	<u>VIOLATION DESCRIPTION</u>	<u>VIOLATION PENALTY CONDITION I*</u>	<u>VIOLATION PENALTY CONDITION II*</u>	<u>VIOLATION PENALTY CONDITION III*</u>	<u>VIOLATION PENALTY CONDITION IV*</u>	<u>VIOLATION PENALTY CONDITION V*</u>
<u>02A</u>	<u>NYCHC 81.09(c)</u>	<u>Public Health Hazard</u>	<u>Other time and temperature control for safety ("TCS") hot food not heated to 140°F for 15 seconds</u>				<u>\$400</u>	<u>\$600</u>
<u>02A</u>	<u>NYCHC 81.09(c)(1)</u>	<u>Public Health Hazard</u>	<u>Poultry, poultry stuffing, parts and ground, comminuted poultry not heated to 165°F for 15 seconds</u>				<u>\$400</u>	<u>\$600</u>
<u>02A</u>	<u>NYCHC 81.09(c)(2)</u>	<u>Public Health Hazard</u>	<u>Pork/food containing pork not heated to 150°F for 15 seconds</u>				<u>\$400</u>	<u>\$600</u>
<u>02A</u>	<u>NYCHC 81.09(c)(3)</u>	<u>Public Health Hazard</u>	<u>Whole meat roasts and beef steak, rare roast beef or beef steak not heated to minimum time/temperature</u>				<u>\$400</u>	<u>\$600</u>
<u>02A</u>	<u>NYCHC 81.09(c)(4)</u>	<u>Public Health Hazard</u>	<u>Ground, comminuted meat, foods containing ground, comminuted meat not heated to 158°F</u>				<u>\$400</u>	<u>\$600</u>
<u>02A</u>	<u>NYCHC 81.09(c)(5)</u>	<u>Public Health Hazard</u>	<u>Stuffed meats, fish, ratites and tenderized meats not heated to 165°F injected, mechanically tenderized meats not heated to 155°F</u>				<u>\$400</u>	<u>\$600</u>
<u>02A</u>	<u>NYCHC 81.09(c)(6)</u>	<u>Public Health Hazard</u>	<u>Shell eggs/food containing shell eggs not heated 145°F for 15 seconds</u>				<u>\$400</u>	<u>\$600</u>
<u>02A</u>	<u>NYCHC 81.09(c)(7)</u>	<u>Public Health Hazard</u>	<u>Raw animal food cooked in microwave not heated to 165°F, not covered, rotated or stirred, not held for 2 minutes</u>				<u>\$400</u>	<u>\$600</u>
<u>02B</u>	<u>NYCHC 81.09(a)</u>	<u>Public Health Hazard</u>	<u>Hot TCS food not held at 140°F or above</u>	<u>\$250</u>	<u>\$300</u>	<u>\$350</u>	<u>\$400</u>	<u>\$600</u>
<u>02C</u>	<u>NYCHC 81.09(d)</u>	<u>CRITICAL</u>	<u>Previously cooked and cooled TCS food not reheated to 165°F for 15 seconds within 2 hours</u>	<u>\$200</u>	<u>\$200</u>	<u>\$250</u>	<u>\$300</u>	
<u>02D</u>	<u>NYCHC 81.09(d)(2)</u>	<u>CRITICAL</u>	<u>Commercially processed TCS food not heated to 140°F within 2 hours</u>	<u>\$200</u>	<u>\$200</u>	<u>\$250</u>	<u>\$300</u>	

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**SCORED VIOLATIONS**

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<u>02E</u>	<u>NYCHC 81.09(f)(5)</u>	<u>CRITICAL</u>	<u>Whole frozen poultry or poultry breast, other than a single portion, cooked frozen or partially thawed</u>	<u>\$200</u>	<u>\$200</u>			
<u>02F</u>	<u>NYCHC 81.11</u>	<u>CRITICAL</u>	<u>Meat, fish, eggs or poultry offered, served raw or partially cooked without written consumer advisory</u>	<u>\$200</u>				
<u>02G</u>	<u>NYCHC 81.09(a)</u>	<u>Public Health Hazard</u>	<u>Cold TCS food not held at 41°F or below</u>	<u>\$250</u>	<u>\$300</u>	<u>\$350</u>	<u>\$400</u>	<u>\$600</u>
<u>02G</u>	<u>NYCHC 81.09(a)(2)</u>	<u>Public Health Hazard</u>	<u>Eggs not held at ambient temperature of 45°F or below</u>	<u>\$250</u>	<u>\$300</u>	<u>\$350</u>	<u>\$400</u>	<u>\$600</u>
<u>02G</u>	<u>NYCHC 81.09(a)(3)</u>	<u>Public Health Hazard</u>	<u>Processed or smoked fish not held at or below 38°F</u>	<u>\$250</u>	<u>\$300</u>	<u>\$350</u>	<u>\$400</u>	<u>\$600</u>
<u>02H</u>	<u>NYCHC 81.09(e)</u>	<u>Public Health Hazard</u>	<u>TCS food not cooled by approved method</u>	<u>\$250</u>	<u>\$300</u>	<u>\$350</u>	<u>\$400</u>	<u>\$600</u>
<u>02I</u>	<u>NYCHC 81.09(e)(2)</u>	<u>CRITICAL</u>	<u>TCS food not cooled to 41°F when prepared from ambient temperature ingredients within 4 hours</u>	<u>\$200</u>	<u>\$200</u>	<u>\$250</u>	<u>\$300</u>	
<u>03A</u>	<u>NYCHC 81.04</u>	<u>Public Health Hazard</u>	<u>Food from unapproved or unknown source, or home cooked</u>				<u>\$400</u>	<u>\$600</u>
<u>03A</u>	<u>NYCHC 81.04(b)</u>	<u>Public Health Hazard</u>	<u>Meat not from an approved source</u>				<u>\$400</u>	<u>\$600</u>
<u>03A</u>	<u>NYCHC 81.04(d)</u>	<u>Public Health Hazard</u>	<u>Exotic and game animals meat not from an approved source</u>				<u>\$400</u>	<u>\$600</u>
<u>03A</u>	<u>NYCHC 81.07(m)</u>	<u>Public Health Hazard</u>	<u>Animal slaughter on MFVU</u>				<u>\$400</u>	<u>\$600</u>
<u>03A</u>	<u>NYCHC 89.19(d)</u>	<u>Public Health Hazard</u>	<u>Ice contaminated or not made from potable water</u>				<u>\$400</u>	<u>\$600</u>
<u>03A</u>	<u>NYCHC 89.19(d)</u>	<u>Public Health Hazard</u>	<u>Ice not obtained in chipped, crushed, or cubed form or not properly packaged.</u>				<u>\$400</u>	<u>\$600</u>

**APPENDIX 6-C MOBILE FOOD VENDING UNIT (MFVU) PENALTY SCHEDULE**  
**SCORED VIOLATIONS**

<u>VIOLATION CODE</u>	<u>CITATION</u>	<u>CATEGORY</u>	<u>VIOLATION DESCRIPTION</u>	<u>VIOLATION PENALTY CONDITION I*</u>	<u>VIOLATION PENALTY CONDITION II*</u>	<u>VIOLATION PENALTY CONDITION III*</u>	<u>VIOLATION PENALTY CONDITION IV*</u>	<u>VIOLATION PENALTY CONDITION V*</u>
03A	<u>NYCHC 89.19(f)</u>	<u>Public Health Hazard</u>	<u>Butchering raw meat on MFVU</u>				<u>\$400</u>	<u>\$600</u>
03B	<u>NYCHC 81.04(c)</u>	<u>Public Health Hazard</u>	<u>Shellfish improperly tagged or labeled</u>				<u>\$400</u>	<u>\$600</u>
03B	<u>NYCHC 81.04(c)</u>	<u>Public Health Hazard</u>	<u>Shellfish required tags not retained at least 90 days</u>				<u>\$400</u>	<u>\$600</u>
03B	<u>NYCHC 81.04(c)</u>	<u>Public Health Hazard</u>	<u>Shellfish records not on MFVU</u>				<u>\$400</u>	<u>\$600</u>
03B	<u>NYCHC 81.04(c)</u>	<u>Public Health Hazard</u>	<u>Shellfish not from an approved source</u>				<u>\$400</u>	<u>\$600</u>
03C	<u>NYCHC 81.07(c)</u>	<u>Public Health Hazard</u>	<u>Whole eggs cracked, not clean; other eggs unpasteurized</u>	<u>\$250</u>	<u>\$300</u>	<u>\$350</u>	<u>\$400</u>	<u>\$600</u>
03D	<u>NYCHC 81.07(b)</u>	<u>Public Health Hazard</u>	<u>Food packages, hermetically sealed containers, or canned food swollen, leaking and/or rusted; not labeled; not segregated from intact packages</u>	<u>\$250</u>	<u>\$300</u>	<u>\$350</u>	<u>\$400</u>	<u>\$600</u>
03E	<u>24 RCNY 6-04(f)</u>	<u>Public Health Hazard</u>	<u>Potable water not provided; inadequate</u>				<u>\$400</u>	<u>\$600</u>
03E	<u>NYCHC 141.13</u>	<u>Public Health Hazard</u>	<u>Bottled water not from an approved source; not state certified</u>				<u>\$250</u>	<u>\$250</u>
03E	<u>NYCHC 81.20(c)</u>	<u>Public Health Hazard</u>	<u>Carbon dioxide gas lines unacceptable, improper materials used</u>				<u>\$400</u>	<u>\$600</u>
03E	<u>NYCHC 81.20(a)</u>	<u>Public Health Hazard</u>	<u>Cross-connection observed between potable and non-potable water</u>				<u>\$400</u>	<u>\$600</u>
03F	<u>NYCHC 81.07(k)</u>	<u>Public Health Hazard</u>	<u>Unpasteurized milk and milk products (except aged cheese) served</u>				<u>\$400</u>	<u>\$600</u>
03G	<u>NYCHC 81.07(a)(4)</u>	<u>CRITICAL</u>	<u>Raw fruits and vegetables not washed prior to cutting, serving</u>	<u>\$200</u>	<u>\$200</u>	<u>\$250</u>	<u>\$300</u>	

**APPENDIX 6-C MOBILE FOOD VENDING UNIT (MFVU) PENALTY SCHEDULE**  
**SCORED VIOLATIONS**

<u>VIOLATION CODE</u>	<u>CITATION</u>	<u>CATEGORY</u>	<u>VIOLATION DESCRIPTION</u>	<u>VIOLATION PENALTY CONDITION I*</u>	<u>VIOLATION PENALTY CONDITION II*</u>	<u>VIOLATION PENALTY CONDITION III*</u>	<u>VIOLATION PENALTY CONDITION IV*</u>	<u>VIOLATION PENALTY CONDITION V*</u>
03H	<u>NYCHC 89.19(f)</u>	<u>Public Health Hazard</u>	<u>Prohibited sale of raw meat, fish, and shellfish</u>				<u>\$400</u>	<u>\$600</u>
03J	<u>NYCHC 81.04(e)</u>	<u>Public Health Hazard</u>	<u>Juice packaged on MFVU with no or incomplete label, no warning statement</u>				<u>\$400</u>	<u>\$600</u>
04B	<u>NYCHC 81.13(a)</u>	<u>Public Health Hazard</u>	<u>Food worker or vendor with illness, communicable disease and/or injury preparing food</u>				<u>\$400</u>	<u>\$600</u>
04B	<u>NYCHC 81.13(i)</u>	<u>Public Health Hazard</u>	<u>Food worker or vendor spitting</u>				<u>\$400</u>	<u>\$600</u>
04C	<u>NYCHC 81.07(j)</u>	<u>Public Health Hazard</u>	<u>Bare hand contact with ready-to-eat foods</u>	<u>\$250</u>	<u>\$300</u>	<u>\$350</u>	<u>\$400</u>	<u>\$600</u>
04D	<u>NYCHC 81.13(d)</u>	<u>Public Health Hazard</u>	<u>Food worker failed to wash hands after contamination; or change gloves when required</u>				<u>\$400</u>	<u>\$600</u>
04E	<u>NYCHC 81.23(d)</u>	<u>Public Health Hazard</u>	<u>Pesticide improperly labeled, stored or used such that food contamination may occur.</u>				<u>\$250</u>	<u>\$300</u>
04F	<u>NYCHC 81.20(b)</u>	<u>Public Health Hazard</u>	<u>Food preparation, food storage, or other area contaminated by sewage or liquid waste</u>				<u>\$400</u>	<u>\$600</u>
04G	<u>NYCHC 81.07(l)</u>	<u>Public Health Hazard</u>	<u>Unprotected TCS food re-served</u>				<u>\$400</u>	<u>\$600</u>
04H	<u>NYCHC 81.07(a)</u>	<u>Public Health Hazard</u>	<u>Food in contact with toxic material</u>	<u>\$250</u>	<u>\$300</u>	<u>\$350</u>	<u>\$400</u>	<u>\$600</u>
04H	<u>NYCHC 81.07(a)</u>	<u>Public Health Hazard</u>	<u>Food not protected from adulteration or contamination</u>	<u>\$250</u>	<u>\$300</u>	<u>\$350</u>	<u>\$400</u>	<u>\$600</u>
04H	<u>NYCHC 81.07(a)(2)</u>	<u>Public Health Hazard</u>	<u>Food not protected from cross-contamination</u>	<u>\$250</u>	<u>\$300</u>	<u>\$350</u>	<u>\$400</u>	<u>\$600</u>
04H	<u>NYCHC 89.19(e)</u>	<u>Public Health Hazard</u>	<u>TCS foods improperly stored on ice</u>	<u>\$250</u>	<u>\$300</u>	<u>\$350</u>	<u>\$400</u>	<u>\$600</u>

**APPENDIX 6-C MOBILE FOOD VENDING UNIT (MFVU) PENALTY SCHEDULE**  
**SCORED VIOLATIONS**

<u>VIOLATION CODE</u>	<u>CITATION</u>	<u>CATEGORY</u>	<u>VIOLATION DESCRIPTION</u>	<u>VIOLATION PENALTY CONDITION I*</u>	<u>VIOLATION PENALTY CONDITION II*</u>	<u>VIOLATION PENALTY CONDITION III*</u>	<u>VIOLATION PENALTY CONDITION IV*</u>	<u>VIOLATION PENALTY CONDITION V*</u>
04H	<u>NYCHC 89.19(i)</u>	<u>Public Health Hazard</u>	<u>Food exposed to contamination when containers stored in cooking water</u>	<u>\$250</u>	<u>\$300</u>	<u>\$350</u>	<u>\$400</u>	<u>\$600</u>
04I	<u>NYCHC 81.07(l)</u>	<u>CRITICAL</u>	<u>Unprotected non-TCS food re-served</u>	<u>\$200</u>	<u>\$200</u>	<u>\$250</u>	<u>\$300</u>	
04J	<u>NYCHC 89.19(b)</u>	<u>CRITICAL</u>	<u>Thermometer not provided, calibrated properly, or accessible for use</u>	<u>\$200</u>				
04K	<u>NYCHC 81.23(a)</u>	<u>CRITICAL</u>	<u>Rats or evidence of rats</u>	<u>\$200</u>	<u>\$200</u>	<u>\$250</u>	<u>\$300</u>	<u>\$350</u>
04L	<u>NYCHC 81.23(a)</u>	<u>CRITICAL</u>	<u>Mice or evidence of mice</u>	<u>\$200</u>	<u>\$200</u>	<u>\$250</u>	<u>\$300</u>	<u>\$350</u>
04M	<u>NYCHC 81.23(a)</u>	<u>CRITICAL</u>	<u>Live roaches</u>	<u>\$200</u>	<u>\$200</u>	<u>\$250</u>	<u>\$300</u>	<u>\$350</u>
04N	<u>NYCHC 81.23(a)</u>	<u>CRITICAL</u>	<u>Filth or FRSA flies, other nuisance pests</u>	<u>\$200</u>	<u>\$200</u>	<u>\$250</u>	<u>\$300</u>	<u>\$350</u>
04O	<u>NYCHC 81.25</u>	<u>CRITICAL</u>	<u>Live animal other than fish in tank or service animal</u>	<u>\$200</u>	<u>\$200</u>	<u>\$250</u>	<u>\$300</u>	
05A	<u>NYCHC 89.25(b)</u>	<u>Public Health Hazard</u>	<u>Sewage and liquid waste holding tank not provided, inadequate or unapproved</u>				<u>\$400</u>	<u>\$600</u>
05B	<u>NYCHC 81.19(c)</u>	<u>Public Health Hazard</u>	<u>Harmful noxious gas or vapor detected; CO levels at or exceeding 9 ppm</u>				<u>\$400</u>	<u>\$600</u>
05C	<u>24 RCNY 6-04(f)(2)</u>	<u>CRITICAL</u>	<u>Water tanks and inlet pipes are not constructed of food grade materials that are corrosion resistant, durable and non-absorbent</u>	<u>\$200</u>	<u>\$200</u>	<u>\$250</u>	<u>\$300</u>	<u>\$350</u>
05C	<u>24 RCNY 6-04(i)(3)</u>	<u>CRITICAL</u>	<u>Culinary sink or alternative method not provided for washing food</u>	<u>\$200</u>	<u>\$200</u>	<u>\$250</u>	<u>\$300</u>	<u>\$350</u>
05C	<u>NYCHC 81.17(d)</u>	<u>CRITICAL</u>	<u>Food contact surface, equipment improperly constructed, located and/or made of unacceptable materials</u>	<u>\$200</u>	<u>\$200</u>	<u>\$250</u>	<u>\$300</u>	<u>\$350</u>
05D	<u>24 RCNY 6-04(i)(1)</u>	<u>CRITICAL</u>	<u>Hand wash facility not provided with potable running water, or properly equipped</u>				<u>\$300</u>	<u>\$350</u>
05D	<u>24 RCNY 6-04(i)(1)</u>	<u>CRITICAL</u>	<u>Hand wash facility without soap, drying device</u>				<u>\$300</u>	<u>\$350</u>
05D	<u>24 RCNY 6-04(i)(1)(A)</u>	<u>CRITICAL</u>	<u>Hand washing facilities not provided/obstructed</u>				<u>\$300</u>	<u>\$350</u>



**APPENDIX 6-C MOBILE FOOD VENDING UNIT (MFVU) PENALTY SCHEDULE**  
**SCORED VIOLATIONS**

<u>VIOLATION CODE</u>	<u>CITATION</u>	<u>CATEGORY</u>	<u>VIOLATION DESCRIPTION</u>	<u>VIOLATION PENALTY CONDITION I*</u>	<u>VIOLATION PENALTY CONDITION II*</u>	<u>VIOLATION PENALTY CONDITION III*</u>	<u>VIOLATION PENALTY CONDITION IV*</u>	<u>VIOLATION PENALTY CONDITION V*</u>
05F	24 RCNY 6-04(l)	CRITICAL	Hot or cold holding equipment not provided or inadequate				\$300	\$350
05H	24 RCNY 6-04(i)(2)	CRITICAL	Equipment and utensils not cleaned and sanitized daily				\$300	\$350
05H	24 RCNY 6-04(i)(2)(A)	CRITICAL	No facilities to wash, rinse, and sanitize utensils or equipment				\$300	\$350
05H	NYCHC 81.46	CRITICAL	No approved standard operating procedure for refillable consumer containers				\$300	\$350
05I	24 RCNY 6-11(g)	CRITICAL	Service contract or agreement with commissary or other approved facility not provided				\$300	\$350
05J	24 RCNY 6-04(b)(4)	CRITICAL	Food vehicles not provided with partition or self-closing door between the drivers seat and the food preparation area.				\$300	\$350
05J	24 RCNY 6-04(n)	CRITICAL	Ice cream truck not equipped with fully operational warning beepers and signage arm				\$300	\$350
05J	24 RCNY 6-04(o)	CRITICAL	MFVU not equipped or constructed with an overhead structure, or similar device				\$300	\$350
05J	24 RCNY 6-04(p)	CRITICAL	Tamper proof locks or other food security mechanism not provided				\$300	\$350
05J	24 RCNY 6-04(f)(1)	CRITICAL	Potable water tank capacity inadequate				\$300	\$350
05J	24 RCNY 6-04(i)(1)	CRITICAL	Potable water storage tank less than 5 gallons				\$300	\$350
06A	NYCHC 81.13	CRITICAL	Food worker or vendor does not maintain personal cleanliness	\$200	\$200	\$250	\$300	
06A	NYCHC 81.13(b)	CRITICAL	Effective hair restraint not worn	\$200	\$200	\$250	\$300	
06A	NYCHC 81.13(c)	CRITICAL	Clean outer garment not worn	\$200	\$200	\$250	\$300	
06A	NYCHC 81.13(e)	CRITICAL	Fingernails not clean, trimmed, or with nail polish	\$200	\$200	\$250	\$300	
06A	NYCHC 81.13(f)	CRITICAL	Jewelry worn on arm(s) or hand(s)	\$200	\$200	\$250	\$300	

**APPENDIX 6-C MOBILE FOOD VENDING UNIT (MFVU) PENALTY SCHEDULE**  
**SCORED VIOLATIONS**

<u>VIOLATION CODE</u>	<u>CITATION</u>	<u>CATEGORY</u>	<u>VIOLATION DESCRIPTION</u>	<u>VIOLATION PENALTY CONDITION I*</u>	<u>VIOLATION PENALTY CONDITION II*</u>	<u>VIOLATION PENALTY CONDITION III*</u>	<u>VIOLATION PENALTY CONDITION IV*</u>	<u>VIOLATION PENALTY CONDITION V*</u>
06A	<u>NYCHC 89.19(i)</u>	<u>CRITICAL</u>	<u>Not properly dressed; sleeveless garment or bare midriff</u>	<u>\$200</u>	<u>\$200</u>	<u>\$250</u>	<u>\$300</u>	
06B	<u>NYCHC 81.13(g)</u>	<u>CRITICAL</u>	<u>Smoking, use of tobacco or electronic cigarette</u>	<u>\$200</u>	<u>\$200</u>	<u>\$250</u>	<u>\$300</u>	
06B	<u>NYCHC 81.13(h)</u>	<u>CRITICAL</u>	<u>Eating or drinking in food preparation or other areas</u>	<u>\$200</u>	<u>\$200</u>	<u>\$250</u>	<u>\$300</u>	
06C	<u>NYCHC 81.07(a)</u>	<u>CRITICAL</u>	<u>Food not protected from contamination</u>	<u>\$200</u>	<u>\$200</u>	<u>\$250</u>	<u>\$300</u>	
06C	<u>NYCHC 81.07(d)</u>	<u>CRITICAL</u>	<u>Food not properly protected when stored</u>	<u>\$200</u>	<u>\$200</u>	<u>\$250</u>	<u>\$300</u>	
06C	<u>NYCHC 81.07(e)</u>	<u>CRITICAL</u>	<u>Food not properly protected when displayed</u>	<u>\$200</u>	<u>\$200</u>	<u>\$250</u>	<u>\$300</u>	
06C	<u>NYCHC 81.07(i)</u>	<u>CRITICAL</u>	<u>Supplies and equipment under or near source of contamination</u>	<u>\$200</u>	<u>\$200</u>	<u>\$250</u>	<u>\$300</u>	
06C	<u>NYCHC 81.07(q)</u>	<u>CRITICAL</u>	<u>Unnecessary traffic through food prep area</u>	<u>\$200</u>	<u>\$200</u>	<u>\$250</u>	<u>\$300</u>	
06C	<u>NYCHC 89.19(h)</u>	<u>CRITICAL</u>	<u>Condiments, seasoning, sugar, dressings: held in inadequate containers, not properly dispensed</u>	<u>\$200</u>	<u>\$200</u>	<u>\$250</u>	<u>\$300</u>	
06D	<u>NYCHC 81.27(b)</u>	<u>CRITICAL</u>	<u>Food contact surface not washed, rinsed and sanitized when required</u>	<u>\$200</u>	<u>\$200</u>	<u>\$250</u>	<u>\$300</u>	
06E	<u>NYCHC 81.07(g)</u>	<u>CRITICAL</u>	<u>Ice not properly dispensed</u>	<u>\$200</u>	<u>\$200</u>	<u>\$250</u>	<u>\$300</u>	
06E	<u>NYCHC 81.07(h)</u>	<u>CRITICAL</u>	<u>In-use food dispensing utensil not properly stored</u>	<u>\$200</u>	<u>\$200</u>	<u>\$250</u>	<u>\$300</u>	
06E	<u>NYCHC 81.07(h)</u>	<u>CRITICAL</u>	<u>Food dispensing utensil not provided</u>	<u>\$200</u>	<u>\$200</u>	<u>\$250</u>	<u>\$300</u>	
06E	<u>NYCHC 89.19(d)</u>	<u>CRITICAL</u>	<u>Ice in large block, not crushed, chipped, or cubed</u>	<u>\$200</u>	<u>\$200</u>	<u>\$250</u>	<u>\$300</u>	
06F	<u>NYCHC 81.27(c)</u>	<u>CRITICAL</u>	<u>Wiping cloth improperly stored and/or sanitized</u>	<u>\$200</u>	<u>\$200</u>	<u>\$200</u>		
06F	<u>SSC 14-4.112(b)</u>	<u>CRITICAL</u>	<u>No test kit for measuring sanitizing solution concentration</u>	<u>\$200</u>	<u>\$200</u>	<u>\$200</u>		
06K	<u>24 RCNY 6-04(p)</u>	<u>Public Health Hazard</u>	<u>MFVU with food left unsecured or unattended for more than one-half hour</u>					<u>\$600</u>
06L	<u>NYCHC 89.19(d)</u>	<u>CRITICAL</u>	<u>Ice not held in manufacturer' s bag</u>			<u>\$250</u>		
06N	<u>NYCHC 89.19(k)</u>	<u>Public Health Hazard</u>	<u>Pesticides, other toxic chemicals improperly used/stored on a vehicle</u>	<u>\$200</u>	<u>\$200</u>	<u>\$200</u>	<u>\$200</u>	<u>\$200</u>

**APPENDIX 6-C MOBILE FOOD VENDING UNIT (MFVU) PENALTY SCHEDULE**  
**SCORED VIOLATIONS**

<u>VIOLATION CODE</u>	<u>CITATION</u>	<u>CATEGORY</u>	<u>VIOLATION DESCRIPTION</u>	<u>VIOLATION PENALTY CONDITION I*</u>	<u>VIOLATION PENALTY CONDITION II*</u>	<u>VIOLATION PENALTY CONDITION III*</u>	<u>VIOLATION PENALTY CONDITION IV*</u>	<u>VIOLATION PENALTY CONDITION V*</u>
07A	NYCHC 3.15(a)	CRITICAL	Interference or obstruction of Department personnel					\$1,000
08A	NYCHC 81.23(a)	CRITICAL	Harborage or conditions conducive to pests with pests, signs of pests			\$200	\$200	
08A	NYCHC 81.23(b)(3)	GENERAL	Door openings from outside not properly equipped when pests or signs of pests present			\$200	\$200	
08B	NYCHC 81.24(a)	GENERAL	Garbage cans not pest- or water-resistant; not covered with tight-fitted lids	\$200				
08B	NYCHC 81.24(c)	GENERAL	Garbage receptacles and covers not cleaned after emptying and prior to reuse	\$200				
08B	NYCHC 89.25(a)	GENERAL	Garbage, refuse and litter not properly removed or stored	\$200				
08B	NYCHC 89.25(a)	GENERAL	Solid and liquid waste discarded on public streets, or in public litter baskets.	\$200				
08C	NYCHC 81.17(g)	GENERAL	Toxic materials not properly stored	\$200	\$200	\$200	\$200	\$200
08C	NYCHC 81.23(d)(4)	GENERAL	Open bait station used	\$200	\$200	\$200	\$200	\$200
08C	NYCHC 89.19(k)	GENERAL	Pesticides not authorized for use	\$200	\$200	\$200	\$200	\$200
08C	NYCHC 89.19(k)	GENERAL	Pesticides, other toxic chemicals improperly used/stored on a vehicle	\$200	\$200	\$200	\$200	\$200
09A	NYCHC 81.07(b)	GENERAL	Dented food cans not segregated	\$200	\$200	\$200	\$200	
09B	NYCHC 81.09(f)	GENERAL	Thawing procedures improper	\$200	\$200	\$200	\$200	
09C	NYCHC 81.17(d)(1)	GENERAL	Food contact surface improperly constructed and maintained; not easily cleanable	\$200	\$200	\$200	\$200	
09D	24 RCNY 6-04	GENERAL	MFVU used as a dwelling, or for sleeping purposes					\$200
09E	NYCHC 81.21(c)	GENERAL	Wash hands sign not posted	\$200				
10B	24 RCNY 6-04(g)(1)	GENERAL	Potable water not protected from back-flow, back-siphonage or cross-connection	\$200	\$200	\$200	\$200	\$200

**APPENDIX 6-C MOBILE FOOD VENDING UNIT (MFVU) PENALTY SCHEDULE**  
**SCORED VIOLATIONS**

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<u>10B</u>	<u>NYCHC 81.20(b)</u>	<u>GENERAL</u>	<u>Improper disposal of sewage or liquid waste</u>	<u>\$200</u>	<u>\$200</u>	<u>\$200</u>	<u>\$200</u>	<u>\$200</u>
<u>10B</u>	<u>NYCHC 81.20(b)</u>	<u>GENERAL</u>	<u>Condensation pipes not properly installed or maintained</u>	<u>\$200</u>	<u>\$200</u>	<u>\$200</u>	<u>\$200</u>	<u>\$200</u>
<u>10C</u>	<u>24 RCNY 6-04(c)</u>	<u>GENERAL</u>	<u>Lighting insufficient; inadequate</u>	<u>\$200</u>	<u>\$200</u>	<u>\$200</u>	<u>\$200</u>	
<u>10D</u>	<u>24 RCNY 6-04(d)</u>	<u>GENERAL</u>	<u>Ventilation (mechanical or natural) not provided or inadequate</u>	<u>\$200</u>	<u>\$200</u>	<u>\$200</u>	<u>\$200</u>	
<u>10E</u>	<u>24 RCNY 6-04(l)(1)</u>	<u>GENERAL</u>	<u>Accurate thermometer not provided in each hot and cold storage or holding equipment</u>	<u>\$200</u>	<u>\$200</u>	<u>\$200</u>	<u>\$200</u>	
<u>10E</u>	<u>24 RCNY 6-04(l)(2)</u>	<u>GENERAL</u>	<u>Thermometer not properly located in each hot and cold holding equipment</u>	<u>\$200</u>	<u>\$200</u>	<u>\$200</u>	<u>\$200</u>	
<u>10F</u>	<u>24 RCNY 6-04 (b)(2)</u>	<u>GENERAL</u>	<u>Exterior non-food contact surfaces: unacceptable materials used</u>	<u>\$200</u>	<u>\$200</u>	<u>\$200</u>	<u>\$200</u>	
<u>10F</u>	<u>24 RCNY 6-04(b)(1)</u>	<u>GENERAL</u>	<u>Interior non-food contact surfaces: unacceptable material used, or not clean or sanitary</u>	<u>\$200</u>	<u>\$200</u>	<u>\$200</u>	<u>\$200</u>	
<u>10F</u>	<u>NYCHC 81.17(e)</u>	<u>GENERAL</u>	<u>Non-food contact surface (equipment, fixtures, decorative material, fans, etc.) not clean or not in working order</u>	<u>\$200</u>	<u>\$200</u>	<u>\$200</u>	<u>\$200</u>	
<u>10G</u>	<u>NYCHC 81.29(a)</u>	<u>GENERAL</u>	<u>Manual sanitizing procedure inadequate</u>				<u>\$200</u>	
<u>10G</u>	<u>NYCHC 81.29(a)(3)(B)</u>	<u>GENERAL</u>	<u>Chemical sanitizer unapproved or sanitizing procedure inadequate</u>				<u>\$200</u>	
<u>10G</u>	<u>NYCHC 81.29(a)(3)(B)</u>	<u>GENERAL</u>	<u>Test kit not accurate or used for manual dishwashing</u>				<u>\$200</u>	
<u>10H</u>	<u>NYCHC 81.07(o)</u>	<u>GENERAL</u>	<u>Single service items improperly stored or reused</u>	<u>\$200</u>	<u>\$200</u>	<u>\$200</u>	<u>\$200</u>	
<u>10H</u>	<u>NYCHC 81.07(o)</u>	<u>GENERAL</u>	<u>Drinking straws improperly dispensed</u>	<u>\$200</u>	<u>\$200</u>	<u>\$200</u>	<u>\$200</u>	
<u>10H</u>	<u>NYCHC 89.23 (c)</u>	<u>GENERAL</u>	<u>Single service items not provided</u>	<u>\$200</u>	<u>\$200</u>	<u>\$200</u>	<u>\$200</u>	
<u>10H</u>	<u>NYCHC 89.23 (c)</u>	<u>GENERAL</u>	<u>Consumer not provided with single service items.</u>	<u>\$200</u>	<u>\$200</u>	<u>\$200</u>	<u>\$200</u>	
<u>10I</u>	<u>NYCHC 89.19(l)</u>	<u>GENERAL</u>	<u>Failure to clean unit at commissary or approved facility at least daily</u>					

**APPENDIX 6-C MOBILE FOOD VENDING UNIT (MFVU) PENALTY SCHEDULE**  
**SCORED VIOLATIONS**

<u>VIOLATION CODE</u>	<u>CITATION</u>	<u>CATEGORY</u>	<u>VIOLATION DESCRIPTION</u>	<u>VIOLATION PENALTY CONDITION</u> I*	<u>VIOLATION PENALTY CONDITION</u> II*	<u>VIOLATION PENALTY CONDITION</u> III*	<u>VIOLATION PENALTY CONDITION</u> IV*	<u>VIOLATION PENALTY CONDITION</u> V*
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**\*Default Penalties.** When a respondent is found in default, the penalty for each violation of the Health Code or the State Public Health Law must be doubled, except that in no case may the penalty imposed exceed \$2000.  
 Except when this Appendix states that a violation is subject to the Multiple Offense Schedule (MOS), the penalty to be imposed upon a respondent found in default for any violation of the rules of the Department in 24 RCNY must be doubled, but may not exceed \$1,000.

**APPENDIX 6-C-2 MOBILE FOOD VENDING UNIT (MFVU) PENALTY SCHEDULE**  
**UNSCORED VIOLATIONS**

<b><u>VIOLATION CODE</u></b>	<b><u>CITATION</u></b>	<b><u>VIOLATION DESCRIPTION</u></b>	<b><u>VIOLATION PENALTY*</u></b>
<u>16-01</u>	<u>NYCHC 81.08(a)</u>	<u>Cooking oil, shortening, margarine contains 0.5 grams or more of artificial trans fat</u>	<u>\$200</u>
<u>16-02</u>	<u>NYCHC 81.08(c)</u>	<u>Nutritional fact labels and/or ingredient label is not maintained on site.</u>	<u>\$200</u>
<u>16-03</u>	<u>NYCHC 81.50(c)</u>	<u>Calorie information is not posted on menu and menu board</u>	<u>\$200</u>
<u>16-03</u>	<u>NYCHC 81.50(c)</u>	<u>Total number of calories or total number of discrete calories not posted.</u>	<u>\$200</u>
<u>16-03</u>	<u>NYCHC 81.50(c)</u>	<u>Calorie information not posted for standard menu items offered in different varieties</u>	<u>\$200</u>
<u>16-03</u>	<u>NYCHC 81.50(c)</u>	<u>Calorie information not posted for combination meals</u>	<u>\$200</u>
<u>16-03</u>	<u>NYCHC 81.50(c)</u>	<u>Calorie information not posted for toppings</u>	<u>\$200</u>
<u>16-03</u>	<u>NYCHC 81.50(c)</u>	<u>Calorie information font, appearance, term used improper</u>	<u>\$200</u>
<u>16-03</u>	<u>NYCHC 81.50(c)</u>	<u>Calorie information improperly posted for standard menu items offered in three or more combinations</u>	<u>\$200</u>
<u>16-03</u>	<u>NYCHC 81.50(c)</u>	<u>Calorie information for standard menu item offered in two different combinations not posted with a slash between both calories count</u>	<u>\$200</u>
<u>16-03</u>	<u>NYCHC 81.50(c)</u>	<u>Calorie information for standard menu items that come in two different varieties not posted with a slash between both calorie count</u>	<u>\$200</u>
<u>16-03</u>	<u>NYCHC 81.50(c)</u>	<u>Calorie information improperly posted for standard menu items offered in three or more different varieties.</u>	<u>\$200</u>
<u>16-04</u>	<u>NYCHC 81.50(d)</u>	<u>Required nutritional succinct statements not posted on menu(s) for adults and children</u>	<u>\$200</u>
<u>16-06</u>	<u>NYCHC 81.50(e)</u>	<u>Additional nutritional information statement not posted</u>	<u>\$200</u>
<u>16-06</u>	<u>NYCHC 81.50(e)</u>	<u>Written nutritional information not provided in a manner required by Federal Law</u>	<u>\$200</u>
<u>16-08</u>	<u>NYCHC 81.49(b)(1)</u>	<u>No sodium warning icon where required</u>	<u>\$200</u>
<u>16-09</u>	<u>NYCHC 81.49(b)(1)</u>	<u>Sodium warning icon non-compliant with design specifications</u>	<u>\$200</u>
<u>16-10</u>	<u>NYCHC 81.49(b)(2)</u>	<u>No sodium warning statement at point of purchase</u>	<u>\$200</u>
<u>18-03</u>	<u>NYCHC 89.05(a)</u>	<u>Operating a MFVU without a permit in restricted or private space</u>	<u>\$1,000</u>

**APPENDIX 6-C-2 MOBILE FOOD VENDING UNIT (MFVU) PENALTY SCHEDULE**  
**UNSCORED VIOLATIONS**

<b><u>VIOLATION CODE</u></b>	<b><u>CITATION</u></b>	<b><u>VIOLATION DESCRIPTION</u></b>	<b><u>VIOLATION PENALTY*</u></b>
<u>18-05</u>	<u>NYCHC 89.07(a)</u>	<u>Operating a MFVU without a license in restricted or private space</u>	<u>\$1,000</u>
<u>18-06</u>	<u>NYCHC 89.13(g)</u>	<u>Allowing unlicensed person to vend</u>	<u>\$1,000</u>
<u>18-07</u>	<u>24 RCNY 6-04(b)(3)</u>	<u>Unobstructed space not provided for posting of permit-decal and grade card</u>	<u>\$500</u>
<u>18-09</u>	<u>NYCHC 89.07(d)</u>	<u>Failure to display license and/or permit documentation</u>	<u>\$200</u>
<u>18-12</u>	<u>NYCHC 3.19</u>	<u>Department document unlawfully reproduced or altered</u>	<u>\$1,000</u>
<u>18-13</u>	<u>NYCHC 3.05(a)</u>	<u>Failure to comply with an Order of the Board of Health, Commissioner or Department</u>	<u>\$1,000</u>
<u>18-14</u>	<u>NYCHC 3.17</u>	<u>Notice, Order or other posted material of the Department mutilated, obstructed, or removed</u>	<u>\$1,000</u>
<u>18-15</u>	<u>NYCHC 81.43(a)</u>	<u>Foodborne illness; failure to notify department</u>	<u>\$200</u>
<u>18-16</u>	<u>NYCHC 89.13(a)</u>	<u>Failure to permit inspection or present unit at time and place designated by the Department</u>	<u>\$1,000</u>
<u>18-17</u>	<u>NYCHC 3.19</u>	<u>Submitting false, misleading statements, documents; documents unlawfully reproduced or altered</u>	<u>\$1,000</u>
<u>20-06</u>	<u>24 RCNY 6-19</u>	<u>Current letter grade or Grade Pending card not posted</u>	<u>\$1,000</u>
<u>20-07</u>	<u>24 RCNY 6-20(b)</u>	<u>Current letter grade or Grade Pending card removed, destroyed, modified, obscured, or otherwise tampered with</u>	<u>\$1,000</u>
<u>22-05</u>	<u>24 RCNY 6-21(b)</u>	<u>Operating without a location sharing device</u>	<u>\$1,000</u>
<u>22-05</u>	<u>24 RCNY 6-21(c)</u>	<u>Location sharing device removed, obstructed, disposed of, modified or tampered with</u>	<u>\$1,000</u>
<u>22-06</u>	<u>24 RCNY 6-03(f)</u>	<u>Vending non-food items</u>	<u>\$200</u>
<u>22-10</u>	<u>NYCHC 89.23(b)</u>	<u>Vending from any place other than a MFVU</u>	<u>\$200</u>
<u>28-01</u>	<u>NYCHC 3.07</u>	<u>Failure to take reasonable precautions to protect health and safety, e.g., by not securing CO2 or liquefied petroleum gas (LPG) containers</u>	<u>\$1,000</u>
<u>28-01</u>	<u>NYCHC 3.09</u>	<u>Failure to abate or remediate nuisance</u>	<u>\$1,000</u>
<u>28-02</u>	<u>NYCHC 81.07(p)</u>	<u>Microwave safe container not marked or used</u>	<u>\$200</u>
<u>28-03</u>	<u>24 RCNY 6-04(c)</u>	<u>Light fixtures not shielded, shatterproofed, or otherwise protected from accidental breakage</u>	<u>\$200</u>
<u>28-04</u>	<u>NYCHC 89.25(c)</u>	<u>Failure to remove consumer litter, and food spillage caused by the operation</u>	<u>\$200</u>
<u>28-05</u>	<u>NYCHC 71.05(a)</u>	<u>Food adulterated or misbranded</u>	<u>\$500</u>
<u>28-05</u>	<u>NYCHC 71.05(b)</u>	<u>Food adulterated or misbranded</u>	<u>\$500</u>

**APPENDIX 6-C-2 MOBILE FOOD VENDING UNIT (MFVU) PENALTY SCHEDULE**  
**UNSCORED VIOLATIONS**

<b><u>VIOLATION CODE</u></b>	<b><u>CITATION</u></b>	<b><u>VIOLATION DESCRIPTION</u></b>	<b><u>VIOLATION PENALTY*</u></b>
<u>28-06</u>	<u>NYCHC 81.23(b)(2)</u>	<u>Contract with pest management professional, record of pest extermination activities not kept on premises</u>	<u>\$200</u>
<u>28-07</u>	<u>NYCHC 81.31</u>	<u>Unauthorized FSE street, sidewalk cooking</u>	<u>\$350</u>
<u>28-08</u>	<u>24 RCNY 6-06(a)</u>	<u>MFVU exceeds size requirements</u>	<u>\$200</u>
<u>99B</u>	<u>NYCHC miscellaneous</u>	<u>Other Health Code unscored violations</u>	<u>\$200</u>

**\*Default Penalties.** When a respondent is found in default, the penalty for each violation of the Health Code or the State Public Health Law must be doubled, except that in no case may the penalty imposed exceed \$2000.

Except when this Appendix states that a violation is subject to the Multiple Offense Schedule (MOS), the penalty to be imposed upon a respondent found in default for any violation of the rules of the Department in 24 RCNY must be doubled, but may not exceed \$1,000.

When a respondent is found in default for any violation of the New York City Administrative Code or the New York State Sanitary Code, the penalty shall remain the same as that set forth herein.



**APPENDIX 6-C-3 MOBILE FOOD VENDING UNIT (MFVU) PENALTY SCHEDULE VIOLATIONS**  
**ADMINISTRATIVE CODE AND MULTIPLE OFFENSE SCHEDULE (MOS)**

<b><u>CITATION</u></b>	<b><u>VIOLATION DESCRIPTION</u></b>	<b><u>PENALTY*</u></b>
<u>Admin. Code 17-307(a)(1)</u>	<u>Unlicensed mobile food vendor (public space)</u>	<u>\$1,000</u>
<u>Admin. Code 17-307(b)(1)</u>	<u>Unpermitted MFVU (public space)</u>	<u>\$1,000</u>
<u>Admin. Code 17-307(b)(1)</u>	<u>Vending food other than fresh fruits and vegetables</u>	<u>\$1,000</u>
<u>Admin. Code 17-307(d)</u>	<u>Vending of unapproved items</u>	<u>MOS**</u>
<u>Admin. Code 17-311</u>	<u>Failure to display license and/or plate</u>	<u>MOS</u>
<u>Admin. Code 17-311(d)</u>	<u>Green Cart vendor failed to carry map showing authorized vending areas</u>	<u>MOS</u>
<u>Admin. Code 17-315(a)</u>	<u>MFVU on sidewalk less than 12 feet, or not at curb</u>	<u>MOS</u>
<u>Admin. Code 17-315(b)</u>	<u>Pushcart touching against building</u>	<u>MOS</u>
<u>Admin. Code 17-315(c)</u>	<u>Items not kept in MFVU (except waste container)</u>	<u>MOS</u>
<u>Admin. Code 17-315(d)</u>	<u>Pushcart against display window or within 20 feet of entrance of any building or within 20 feet from exits, including service exits, to buildings that are exclusively residential at street level</u>	<u>MOS</u>
<u>Admin. Code 17-315(e)</u>	<u>Vending in: bus stop, sidewalk next to a hospital or health facility, no standing zone or within 10 feet of a driveway, subway, crosswalk</u>	<u>MOS</u>
<u>Admin. Code 17-315(h)</u>	<u>Vending on median strip, which is not intended for mall or plaza</u>	<u>MOS</u>
<u>Admin. Code 17-315(i)</u>	<u>Unapproved vending within Parks Department jurisdiction</u>	<u>MOS</u>
<u>Admin. Code 17-315(k), (l)</u>	<u>Vending at time/place prohibited</u>	<u>MOS</u>

**\*Default Penalties.** When a respondent is found in violation of New York City Administrative Code section 17-307 (a)(1) or (b)(1), the penalty for each violation is \$1,000 which may not be increased on default.

**\*\*MOS or Multiple Offense Schedule.** In accordance with New York City Administrative Code section 17-325, the Multiple Offense Schedule (MOS) applies to a subsequent violation by the same respondent, of the same section of law listed in this Penalty Schedule as subject to the "MOS" with a date of occurrence within two (2) years of the date(s) of occurrence of the first violation. The MOS is to be applied as follows:

1st Violation \$50 (default \$50); 2nd Violation \$100 (default \$100); 3rd Violation \$250 (default \$250); 4th and subsequent Violation \$500 (default \$500).

**NEW YORK CITY MAYOR'S OFFICE OF OPERATIONS  
253 BROADWAY, 10<sup>th</sup> FLOOR  
NEW YORK, NY 10007  
212-788-1400**

**CERTIFICATION / ANALYSIS  
PURSUANT TO CHARTER SECTION 1043(d)**

**RULE TITLE:** Grading of Mobile Food Vending Units

**REFERENCE NUMBER:** DOHMH-87

**RULEMAKING AGENCY:** Board of Health

I certify that this office has analyzed the proposed rule referenced above as required by Section 1043(d) of the New York City Charter, and that the proposed rule referenced above:

- (i) Is understandable and written in plain language for the discrete regulated community or communities;
- (ii) Minimizes compliance costs for the discrete regulated community or communities consistent with achieving the stated purpose of the rule; and
- (iii) Does not provide a cure period because the violations pose significant risks to public health and safety.

/s/ Maurice A. Goldstein  
Mayor's Office of Operations

May 24<sup>th</sup>, 2018  
Date

**NEW YORK CITY LAW DEPARTMENT  
DIVISION OF LEGAL COUNSEL  
100 CHURCH STREET  
NEW YORK, NY 10007  
212-356-4028**

**CERTIFICATION PURSUANT TO  
CHARTER §1043(d)**

**RULE TITLE:** Grading of Mobile Food Vending Units

**REFERENCE NUMBER:** 2018 RG 003

**RULEMAKING AGENCY:** Board of Health

I certify that this office has reviewed the above-referenced proposed rule as required by section 1043(d) of the New York City Charter, and that the above-referenced proposed rule:

- (i) is drafted so as to accomplish the purpose of the authorizing provisions of law;
- (ii) is not in conflict with other applicable rules;
- (iii) to the extent practicable and appropriate, is narrowly drawn to achieve its stated purpose; and
- (iv) to the extent practicable and appropriate, contains a statement of basis and purpose that provides a clear explanation of the rule and the requirements imposed by the rule.

/s/ STEVEN GOULDEN  
Acting Corporation Counsel

Date: May 23, 2018