



Department of
Health & Mental
Hygiene

Chapter 23 of Title 24 of the Rules of the City of New York

Inspection Scoring and Letter Grading System for Food Service Establishments

**INSIDE:
Letter Grading–
Frequently Asked Questions**

December, 2010

**DEPARTMENT OF HEALTH AND MENTAL HYGIENE
COMMISSIONER OF HEALTH AND MENTAL HYGIENE**

**NOTICE OF ADOPTION OF A RULE
REPEALING AND RECODIFYING CHAPTER 23
OF TITLE 24 OF THE RULES OF THE CITY OF NEW YORK**

In compliance with §1043 of the New York City Charter (the “Charter”), a notice of intention to repeal and recodify Chapter 23 of Title 24 of the Rules of the City of New York and notice of public hearing was published in the City Record on April 26, 2010, and a public hearing was held on May 26, 2010. Fifteen persons testified at the public hearing and 263 written comments were received.

Statutory Authority

Amendment of Chapter 23 of Title 24 of the Rules of the City of New York is authorized by §§389(b) and 1043(a) of the New York City Charter (the “Charter”). Charter §389(b) 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.” Charter §1043(a) authorizes each agency to “adopt rules necessary to carry out the powers and duties delegated to it by or pursuant to federal, state or local law.”

STATEMENT OF BASIS AND PURPOSE

In 2005, the Department of Health and Mental Hygiene (“DOHMH” or the “Department”) adopted new rules in Chapter 23 of Title 24 of the Rules of the City of New York for food service establishment sanitary inspection procedures, establishing and modifying with later amendments, a scoring system for such inspections. Chapter 23 includes two appendices demonstrating how a sanitary inspection’s violations are weighted and scored according to their severity.

At its meeting on March 16, 2010, the Board of Health amended §81.51 of the New York City Health Code, authorizing the Department to establish a letter grading program for food service establishments. The Board determined that providing restaurant grading information is feasible, will inform consumer choice and is likely to improve restaurants’ compliance with Health Code requirements and thereby reduce the burden of food borne illness in New York City.

A full development of the rationale for letter grading is set forth in the Statement of Basis and Purpose in the Board of Health resolution adopting §81.51 of the Health Code. The resolution may be found at <http://www.nyc.gov/html/doh/downloads/pdf/notice/2010/Article-81.pdf>. That rationale noted that a significant number of food service establishments are closed every year by the Department as a result of serious, repeated violations or imminent health hazards found on sanitary inspections and that restaurant conditions frequently require the Department to return for compliance inspections. Since the resolution was adopted, the number of restaurant closures by the Department has continued to rise; restaurant-related food-borne illness complaints via 311 have gone up; and hospitalization rates for food-borne illness, including illness likely to be attributable to restaurant dining, which have been increasing over the past ten years, have continued to rise.

Summary of public comments

A total of 278 comments were received about the proposed rules; 256 were in favor of the proposal and 22 were against. The comments in opposition included an objection to grading on the ground that it would have an adverse economic impact on the restaurant industry, requests that grading be delayed, proposals that New York City adopt the Los Angeles inspectional program’s scoring and grading system, and a suggestion that establishments not subject to letter grading be included and that some establishments included in grading be excluded. Comments also proposed specific changes to certain violations. The Department has carefully considered each of the comments and has made some changes in response. All of the changes are listed below. As set forth in the Statement of Basis and Purpose for the adoption of Health Code §81.51, letter grading is being adopted to provide the public with greater access to interpretable restaurant inspection findings, provide opportunities and greater incentive for restaurants to improve their food hygiene practices and comply with city and state food safety regulations, and by doing so, reduce the burden of food-borne illness in New York City.

Chapter 23 has been repealed and recodified to require posting of letter grades summarizing the results of sanitary inspections. Some changes have been made to violations. The following changes have been made.

§23-01. Definitions and construction of words and terms replaces former §23-01, Introduction and Scope, which was repealed as no longer necessary. Changes to former §23-02, “Definitions and construction of words and terms,” renumbered as §23-01, are as follows:

Definitions have been amended for “compliance inspection,” “critical violations,” “initial inspection,” “notice of violation,” “pre-permit inspection,” “public health hazards,” and “sanitary inspection.”

Definitions of “commissioner,” “complaint inspection,” “department,” “full sanitary inspection,” “general violations,” “hazard analysis critical control point,” “numeric point value,” and “reduced oxygen packaging” have been deleted as no longer needed. A provision has been included in §23-02 that terms used in the appendices shall have the same meanings as the definitions in Article 81 of the Health Code.

New definitions have been added for “grade card,” “grade pending card,” “inspection cycle,” “OATH,” “operating or in operation,” “pre-permit serious item,” “reinspection,” “re-opening inspection.”

§23-02. Scoring of sanitary inspections. This section incorporates provisions of former §23-03 (Conduct of Sanitary Inspections) and § 23-06 (Point Values), indicating that points on an inspection will be scored based only on violations, violation conditions and condition levels listed in Appendix 23-A (Food Service Establishment Sanitary Inspection Scoring Worksheet) and Appendix 23-B (Food Service Establishment Sanitary Inspection Scoring Parameters—A Guide to Conditions).

§23-03. Letter grading. This section is new. It establishes letter grades of “A,” “B,” or “C”; indicates which inspections will result in a grade; and sets forth the inspection scores that correspond to each letter grade. Subdivision (d) provides that the Department will continue to conduct compliance inspections whenever an establishment has 28 or more points, and that these inspections will not be associated with a letter grade.

§23-04. Intervals between inspection cycles. This section is new. It establishes varying periods of time between inspection cycles based on the points scored during either an initial inspection or reinspection, or following an authorized re-opening after the Department closes an establishment. Establishments that score the highest number of points on an initial inspection or reinspection can generally expect to be inspected more frequently than lower-scoring establishments. Subdivision (b) of this section preserves the authority of the Department to conduct compliance inspections when the Department determines there is a heightened public health risk necessitating such inspections, e.g., in the case of food borne illness outbreaks or an establishment having been closed and authorized by the Department to reopen during its prior inspection cycle.

§23-05. Issuance of notices of violation. This section incorporates provisions of former §23-08 (Issuance of Notices of Violation), but deletes provisions concerning sanitary inspections that are not full inspections, as no longer necessary. Former §23-04 (Failure of Sanitary Inspections) is also repealed because the Department will no longer deem a food service establishment that has scored 28 or more points as having “failed” an inspection.

§23-06 Revocation or suspension of permits. This section amends former § 23-05, preserving provisions related to commencement of proceedings to revoke or suspend permits and adds provisions concerning the effect on an establishment’s letter grade when an establishment that has been closed by the Department is authorized to re-open.

§23-07 Posting letter grades. This section is new. It sets forth requirements for when and where letter grades must be posted and the effects of adjudication or settlement of notices of violation at the Department’s Administrative Tribunal on grade posting.

§23-08 Effect of other laws and construction. This section renumbers current § 23-09 but is otherwise unchanged.

Appendix 23-A: “Food Service Establishment Sanitary Inspection Score Worksheet” Originally, changes were proposed to conform the descriptions of violations to the descriptions in Appendix 23-B. In response to comments, however, a number of changes were made to point values.

Appendix 23-B: “Food Service Establishment Sanitary Inspection Scoring Parameters—A Guide to Conditions”

Changes shown in the chart below apply to both Appendix 23-A and B.

CURRENT VIOLATION NUMBER	CHANGE	RATIONALE
2B*	Changing the violation, addressing in one category number of hot food items out of temperature or hot food items out of temperature in different areas of the establishment, replacing two separate "2B*" violations.	The condition levels for this violation target the establishment's ability to maintain correct holding temperatures for hot foods. Measuring both the numbers of items out of temperature and the areas of the facility where food is out of temperature enables a more comprehensive description for identifying the violation level.
2G*	Changing the violation, addressing in one category number of cold food items out of temperature or hot food items out of temperature in different areas of the establishment, replacing two separate "2G*" violations.	The condition levels for this violation target the establishment's ability to maintain correct holding temperatures for cold foods. Currently the violation focuses on quantity of food out of temperature. Measuring both the numbers of items out of temperature and the areas of the facility where food is out of temperature enables a more comprehensive description for identifying the violation level.
2J*	Edited that Reduced Oxygen Packaged (ROP) food not cooled by an approved method whereby the internal product temperature is reduced to 38°F within two hours of cooking and if necessary further cooled to a temperature of 34°F within six (instead of four) hours of reaching 38°F.	Correcting error and making violation consistent with Health Code § 81.12.
3C*	Changed the numbers of eggs that fall within the condition levels.	Revised numbers better correspond with typical egg packaging.
3D*	Changed to specify that it is not a violation to have damaged cans on FSE premises so long as those cans are marked and separated from consumable food items. Changes also revise the numbers of damaged cans that fall within each condition level.	The change addresses concerns that violations could be issued when a FSE has damaged cans on the premises even when it intends to return or discard those cans. The change to the numbers of cans within each condition levels is to better correspond with standard packaging.
3G*	Changing term "product" to "item" and examples of types of food that will be counted in condition of the violation.	Change clarifies types of foods that will be counted in calculating conditions.
4H*	Deleted.	This violation addressed food intended for consumption in contact with toxic material and there was redundancy with other violations that address food contamination.
4I*	Renumbered as 4H. Clarifies that numbers of unsafe food items will be counted in calculating conditions levels, including the same food found in more than one area of an establishment.	The condition levels for this violation are meant to target the establishment's ability to maintain unadulterated and non-contaminated food. A better measurement of this is the numbers of different kinds of foods or the same foods observed in different areas, rather than the weight of such food.
4J	Renumbered as 4I.	Renumbering.
4K	Renumbered as 4J.	Renumbering.
4L	Renumbered as 4K.	Renumbering.

CURRENT VIOLATION NUMBER	CHANGE	RATIONALE
4M	Renumbered as 4L.	Renumbering.
4N	Renumbered as 4M. Deleted “Evidence of roaches” to clarify that the violation is only for “live roaches.”	Renumbering. Inspectors will only identify live roaches as a violation.
4O	Renumbered as 4N. Changed this violation from “flying insects” to (a) presence of filth flies or food/refuse/sewage-associated (FRSA) flies; and (b) considers a condition I violation for 2-5 flies in a food preparation or storage area only if those flies are observed between November 1-March 1.	Renumbering. The current violation addresses “flying insects,” which is too broad; food safety concerns are derived from presence of only filth flies and food/refuse/sewage-associated flies. The former violation for 2-5 flies at any time of the year did not adequately target such concerns, and observing fewer than 6 flies in the period between March 2-October 31 could be incidental to an open window, and will not result in a violation. However, the presence of these flies in a food storage or preparation area in the coldest months is indicative of an infestation within the establishment.
4P	Renumbered as 4O. Clarified that live animals are prohibited other than fish in tank or service animal. Eliminated extraneous details.	Renumbering. Clarifying violation. Current examples include extraneous descriptions of customers and animals.
5D+	Specifying that water pressure at a hand wash sink must be adequate to enable acceptable hand washing for employees.	Changed to specify that low water pressure is a violation only if pressure is insufficient to enable proper hand washing.
5F+	Consolidated with 5G.	Consolidated with 5G.
5G+	Deleted.	Deleted and consolidated with 5F.
5H+	Renumbered as 5G+	Renumbered.
5I+	Renumbered as 5H+	Renumbered.
5J	Deleted from scoring.	Nuisance violations or failure to prevent a nuisance will be cited as separate violations but not counted in scoring.
6A	Specifying that (a) outer garments should not be soiled with possible contaminants and (b) that effective hair restraint is required only in food preparation areas.	Change made to clarify that soiled garments will be a violation if soiled with possible contaminants rather than just stained or made dirty over the course of typical food preparation, and that hair restraint must be worn in food preparation areas.
6B	Adding that drinking is prohibited only from an open container.	Drinking from a closed container is permissible and consistent with FDA model food code.
7B	Deleted.	Unnecessary category of violation.
7C	Deleted.	Unnecessary category of violation.
7D	Deleted.	Unnecessary category of violation.
7E	Deleted.	Unnecessary category of violation.
7F	Deleted.	Unnecessary category of violation.

CURRENT VIOLATION NUMBER	CHANGE	RATIONALE
8A	Deleting violations for “holes or openings” and requiring adequate pest proofing. Conditions I and II have been deleted.	As revised, terminology more precisely identifies violations. A violation would now issue only for condition levels III or IV for failing to pest proof.
8B	Amended this violation to specify that a garbage may be left uncovered during active use.	As revised, violations will more accurately identify conditions and not assess points for uncovered garbage cans when being used for immediate disposal of food scraps during active food preparation.
9A	The change (a) deletes the term “severely”; (b) requires dented cans to be segregated from consumable food so as not to be used; and (c) changes the number of cans within each condition level.	“Severely” would be deleted to be consistent with FDA Food Code, which considers all dents to present a possible safety hazard. Pinhole damage to a can from a dent may be undetectable to the human eye, but still may compromise the integrity of the product. A damaged can should be segregated, but it will no longer be a violation simply to keep damaged cans on the premises. The change to the numbers of cans that correspond to condition levels is to better conform with standardized manufacturers’ packaging.
9B	Deleting.	This violation regarding milk dating is deleted from scoring because it is not sufficiently related to food safety.
9C	Renumbering as 9B. Removing pounds as the basis for setting condition levels.	The condition levels for this violation are meant to target the establishment’s ability to practice proper thawing procedures. Currently, the condition levels include pounds of food as a measurement. A better measurement than poundage is the number of improperly thawed foods or the number of different areas where improperly thawed food is found. The more items of food or the more areas of the establishment with unsafe food, the greater the indication of an inability to practice food safety. Renumbering.
9D	Renumbering to 9C.	Renumbering.
10C	Inadequate lighting violations will now also include lack of permanent lighting in food preparation, warewashing and storage areas. Violations for unshielded or non-shatterproof light bulbs have been deleted from scoring.	Deleted from scoring violations are those for uncovered or non-shatterproof light bulbs as the Department agrees with comments that such violations are only indirectly related to food safety. However lack of adequate permanent lighting in specific areas can compromise food safety by making it difficult to distinguish food items, notice dirt or contamination, or contributing to safety concerns .
10D	Clarifies and specifies conditions that will generate a scored ventilation system violation.	Listing specific descriptions of conditions that generate a violation provides better notice to establishment operators.

CURRENT VIOLATION NUMBER	CHANGE	RATIONALE
10F	Combining 10F and 10G and clarifying that the violation is to address ability to properly clean surfaces and equipment. Deleting "Aisle or workspace inadequate."	Change is made to clarify reason for the violation. In response to concerns that a violation could issue for a small workspace, this provision is deleted. Any food safety violations that arise from having too small a workspace will be address more specifically under other violations.
10G	Combine with 10F.	Combining with 10F.
10H	Renumbered as 10G.	Renumbering.
10I	Renumbered as 10H. Combining with original 10J and 10K. Changing violation to "Proper sanitization not provided for utensil ware washing operation." Changing condition levels to incorporate 10I-K.	Renumbering. Combining violation 10I with 10J & K and deleting those.
10J	Deleted.	Combining with 10I.
10K	Deleted.	Combining with 10I.
10L	Renumbered as 10I.	Renumbering.
10M	Renumbered as 10J..	Renumbering.
12A	Deleting violation.	No longer necessary.

Section 1. Chapter 23 (FOOD SERVICE ESTABLISHMENT SANITARY INSPECTION PROCEDURES) and Appendix A and Appendix B of Title 24 of the Rules of the City of New York is repealed and recodified to be printed as follows:

**CHAPTER 23
FOOD SERVICE ESTABLISHMENT SANITARY INSPECTION PROCEDURES
AND LETTER GRADING**

§23-01. Definitions and construction of words and terms.

§23-02. Scoring of sanitary inspections.

§23-03. Letter grading.

§23-04. Intervals between inspection cycles.

§23-05. Issuance of notices of violations.

§23-06. Revocation or suspension of permits.

§23-07. Posting letter grades.

§23-08. Effect of other laws and construction.

§23-01. Definitions and construction of words and terms.

Administrative Tribunal shall mean the Administrative Tribunal of the Department established in Article 7 of the Health Code.

Compliance inspection shall mean an inspection not for the purposes of grading conducted within a cycle.

Condition level shall mean 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.

Critical violations shall mean the violations of the Health Code or other applicable law listed under the classification

“critical violations” in Appendix 23-A of these rules.

Food service establishment or establishment shall have the same meaning as the definition in § 81.03 of the Health Code, except that it shall not include mobile food vending units.

General violations shall mean violations listed under the classification “general violations” in Appendix A and Appendix B of this Chapter.

Grade card shall mean the card containing the letter grade associated with the score for an inspection.

Grade pending card shall mean the card issued by the Department to an establishment indicating that an establishment’s grade for the current cycle is in the process of being determined.

Initial inspection shall mean the first sanitary inspection within an inspection cycle.

Inspection cycle shall mean a series of related inspections consisting of at least an initial inspection and including, if triggered by the initial or any subsequent inspections within that cycle, a reinspection and any compliance inspections conducted by the Department because of a previous inspection score in that cycle.

Notice of violation shall have the same meaning as in Article 7 of the Health Code.

OATH shall mean the Office of Administrative Trials and Hearings of the City of New York.

Operating or in operation shall mean that a food service establishment is receiving, preparing, storing or serving food or that the establishment is open to the public.

Pre-permit inspection shall mean a sanitary inspection conducted prior to permit approval to determine compliance of a food service establishment with the Health Code and other applicable law, regardless of whether the establishment is in operation.

Pre-permit serious item is a violation, identified in Appendix 23-A of this Chapter by a plus (+) sign that shall be corrected prior to approval of the permit.

Public health hazards are critical violations or conditions that are known to contribute directly to food-borne illness or disease, identified with an asterisk (*) in Appendix 23-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 shall mean a sanitary inspection conducted for the purpose of grading following receipt of a score of 14 or more points on an initial inspection.

Re-opening inspection shall mean the pre-operational inspection conducted after the Department closes an establishment to determine whether conditions leading to the closing have been corrected.

Sanitary inspection shall mean any on-site review by the Department of a food service establishment’s physical facilities, food handling operations, equipment, sanitary condition, maintenance and worker hygiene practices. The term may but shall not be limited to include initial, reinspection, compliance and pre-permit inspections.

§23-02. Scoring of sanitary inspections.

The Department shall when conducting a sanitary inspection assess points only for those violations, violation conditions and condition levels listed in Appendix 23-A (Food Service Establishment Sanitary Inspection Scoring Worksheet) and Appendix 23-B (Food Service Establishment Sanitary Inspection Scoring Parameters—A Guide to Conditions) to this Chapter. Terms used in these appendices shall have the same meaning as their definitions in Article 81 of the Health Code.

§23-03. Letter grading.

(a) The Department, whenever practicable and subject to §23-04, shall conduct an inspection cycle at least annually at each food service establishment required by §81.51 of the Health Code to post a letter grade for the purpose of issuing such establishment a grade that identifies and represents that establishment’s compliance with those laws and regulations that require it to operate in a sanitary manner so as to protect public health. Based on the results of either the initial inspection or reinspection in a cycle, an establishment shall in accordance with these rules be issued a letter grade of either “A,” “B,” or “C” for that cycle, except that an establishment 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 establishment that receives fewer than 14 points on either the initial inspection or reinspection in a cycle.

(c) The Department shall not issue a letter grade to any establishment receiving 14 or more points on an initial inspection, but shall schedule a reinspection to occur no sooner than 7 days after the initial inspection. The Department shall on the reinspection issue a letter grade of "B" to any establishment receiving 14-27 points and a letter grade of "C" to any establishment receiving 28 or more points.

(d) The Department in any cycle may, in addition to conducting an initial and any reinspection for the purpose of issuing an establishment a letter grade, 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 an establishment's letter grade for that cycle.

§23-04. Intervals between inspection cycles.

(a) A food service establishment shall post its letter grade until the Department issues it a new letter grade card or until a "grade pending" card is required to be posted in the establishment's next inspection cycle. The Department shall not wait one year to schedule the next inspection cycle for any establishment that receives 14 or more points on its initial inspection, but instead the interval of time between the final inspection in such cycle and the initial inspection in the establishment's next cycle 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 150 to 210 days after the reinspection at an establishment that receives a score of 14 to 27 points on an initial inspection or reinspection and does not score 28 or more points on either of these inspections.

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

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

(b) Notwithstanding any other provision of this Chapter to the contrary, in circumstances when the Department believes there is an increased risk to public health, nothing in this section shall prohibit the Department from inspecting an establishment and treating that inspection as the initial inspection in a new cycle. Such circumstances include, but are not limited to, an establishment having a history of Department closure(s), being the subject of complaints of unsanitary conditions, or being compromised following an environmental emergency.

§23-05. Issuance of notices of violations.

(a) The Department shall issue a notice of violation whenever a food service establishment is cited on any sanitary inspection for one or more critical violations or accumulates 14 or more points, regardless of whether any critical violations are cited on such inspection.

(b) All violations shall be recorded and/or cited individually on inspection reports and notices of violation.

§23-06. Revocation or suspension of permits.

(a) Findings of serious and persistent violations or uncorrected public health hazards on any sanitary inspection may provide the basis for commencement of a proceeding to revoke or suspend a permit pursuant to Article 5 of the Health Code.

(b) The Department shall post signs on any establishment that it orders closed indicating that such establishment is not open to the public and shall remove any posted grade-related card.

(c) Prior to authorizing any closed establishment being allowed to re-open, the Department shall conduct a re-opening inspection. The Department may conduct as many inspections as it deems necessary to determine whether the establishment is in compliance with applicable law and may be reopened for operation.

(d) If an establishment that is required by §81.51 of the Health Code to post a letter grade is closed and then allowed to re-open, upon re-opening, the grade card that had been posted by the establishment before the closure will be posted again, except that where the closure occurred on the establishment's initial inspection, a "grade pending" card shall be posted, and any grade card previously posted shall be removed, and where the closure occurred on a reinspection a "grade pending" card or the letter grade card corresponding to the score on the reinspection shall be posted.

§23-07. Posting letter grades.

(a) The Department shall at the time of inspection provide any establishment required by §81.51 of the Health Code to post a letter grade that receives a score of 13 or less on an initial or reinspection with a grade card displaying the letter grade “A,” which shall be posted immediately by the establishment.

(b) If an establishment required by §81.51 of the Health Code to post a letter grade 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 card from the prior cycle until its reinspection. If the establishment has been issued no prior grade card, it shall have no posting until its reinspection.

(c) If an establishment required by §81.51 of the Health Code to post a letter grade receives a score of 14 or more points on the reinspection, and is not closed by the Department, the Department shall provide the establishment with a “grade pending” card and a grade card displaying the letter grade that corresponds with its inspection score at the reinspection. The establishment shall immediately post either the grade card or the “grade pending” card. If the establishment elects to post the “grade pending” card, it may only do so until it has had an opportunity to be heard at the Department’s Administrative Tribunal pursuant to subdivision (d) of this section and §81.51 of the Health Code.

(d) Effect of adjudication at the Administrative Tribunal on grading of establishments required by §81.51 of the Health Code to post letter grades:

(1) If the establishment appears personally at the Administrative Tribunal and as a result of such proceeding the score received on a reinspection does not change the grade, the establishment shall immediately upon receipt of the notice of decision remove any posted “grade pending” card and post the grade card provided by the Department at such inspection.

(2) Subject to the provisions of paragraph (3) of this subdivision, if the establishment does not appear at the Administrative Tribunal on or before the scheduled hearing date, in accordance with Article 7 of the Health Code, the establishment shall, on the date of the hearing, post the letter grade card provided by the Department at the reinspection.

(3) If the establishment appears at the Administrative Tribunal on the scheduled date, but the hearing is unable to proceed for any reason, or if the establishment makes a timely request for an adjournment and such adjournment is granted, the establishment may continue to post the “grade pending” card and defer posting the letter grade card until the adjourned hearing date. In no event shall an establishment fail to post the grade card after the adjourned hearing date if the establishment is not able to proceed on such date.

(4) If the establishment appears at the Administrative Tribunal and as a result of such proceeding the score received for the reinspection changes in a way that results in a change of grade, the Department shall provide the establishment with a new letter grade card that shall be promptly posted by the establishment in place of any other letter grade card or “grade pending” card.

(5) If the establishment receives notice of decision by mail, the establishment shall immediately upon receipt of the notice of decision remove any grade pending card and post the grade card provided with the notice of decision, if any. If no new grade card is issued with the notice of decision, the establishment shall immediately post the grade card issued by the Department at the reinspection.

(6) When an establishment settles the notice of violation issued at the reinspection by mail, online, or in person, the establishment shall immediately upon settlement post the grade card issued by the Department at such reinspection.

(7) The disposition of any notice of violation at the Administrative Tribunal shall not affect any provision of this Chapter or other applicable law other than the issuance of a grade.

(e) An establishment required by §81.51 of the Health Code to post a letter grade shall shred or otherwise dispose of all non-current letter grade cards and “grade pending” cards in a manner that prevents reuse of the cards.

(f) The “grade pending” or letter grade card shall be posted in a conspicuous place where it is visible to passersby. The card shall be placed on the front window, door or exterior wall of an establishment required by §81.51 of the Health Code to post a letter grade. The card shall be within five feet of the front door or other opening to the establishment where customers enter from the street, at a vertical height no less than four feet and no more than six feet from the ground or floor. An establishment without a direct entrance from the street shall post the grade card or “grade pending” card at a place designated by the Department at its immediate point of entry so that it is clearly visible to passersby.

(g) Letter grade cards shall not be removed except when authorized by the Department.

§23-08. Effect of other laws and construction.

(a) These rules shall be read and enforced in accordance with all applicable provisions of law, including, but not limited to, the State Public Health Law and Sanitary Code, the New York City Health Code, and Title 17 of the Administrative Code of the City of New York.

(b) No provision herein shall limit the authority of the Department to conduct such other inspections or take any other action it deems necessary, to enforce any provision of law within the jurisdiction of the Department.

(c) If any provision of this Chapter is adjudged invalid by any court of competent jurisdiction, such judgment shall not affect or impair the validity of the remainder of this Chapter.

§2. The list of section headings in Title 24 of the Rules of the City of New York is amended to read as follows:

Chapter	1	Posting Regulations for Vendors of Alcoholic Beverages
*	*	*
	23	Food Service Establishment Sanitary Inspection Procedures and Letter Grading.

**APPENDIX 23-A
FOOD SERVICE ESTABLISHMENT INSPECTION WORKSHEET**

CRITICAL VIOLATIONS

SCORE

	CONDITIONS					SCORE				
	I	II	III	IV	V					
FOOD TEMPERATURE										
2A*	Food not cooked to required minimum temperature: <ul style="list-style-type: none"> • Poultry, meat stuffing, stuffed meats $\geq 165^{\circ}\text{F}$ for 15 seconds • Ground meat and food containing ground meat $\geq 158^{\circ}\text{F}$ for 15 seconds • Pork, any food containing pork $\geq 155^{\circ}\text{F}$ for 15 seconds • Rare roast beef, rare beefsteak except per individual customer request \geq required temperature and time • All other foods except shell eggs per individual customer request $\geq 145^{\circ}\text{F}$ for 15 seconds 					-	-	-	10	28
2B*	Hot food item not held at or above 140°F .					7	8	9	10	28
2C	Hot food item that has been cooked and refrigerated is being held for service without first being reheated to 165°F or above within 2 hours.					5	6	7	8	-
2D	Precooked potentially hazardous food from commercial food processing establishment that is supposed to be heated, but is not heated to 140°F within 2 hours.					5	6	7	8	-
2E	Whole frozen poultry or poultry breasts, other than a single portion, is being cooked frozen or partially thawed.					5	6	-	-	-
2F	Meat, fish or molluscan shellfish served raw or undercooked without prior notification to customer.					-	-	-	8	-
2G*	Cold food item held above 41°F (smoked fish and reduced oxygen packaged foods above 38°F) except during necessary preparation.					7	8	9	10	28
2H*	Food not cooled by an approved method whereby the internal product 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
2H*	Food not cooled by an approved method whereby the internal product temperature is reduced from 140°F or less within 2 hours, and from 70°F to 41°F or less within 4 additional hours.					7	8	9	10	28
2I	Food prepared from ingredients at ambient temperature not cooled to 41°F or below within 4 hours.					5	6	7	8	-
2J*	Reduced oxygen packaged (ROP) foods not cooked by an approved method whereby the internal food temperature is reduced to 38°F within two hours of cooking and if necessary further cooled to a temperature of 34°F within six hours of reaching 38°F .					7	8	9	10	28
FOOD SOURCE										
3A*	Food from unapproved or unknown source or home canned. Reduced oxygen packaged (ROP) fish not frozen before processing; or ROP foods prepared on premises transported to another site.					-	-	-	10	28
3B*	Shellfish not from approved source, improperly tagged/labeled; tags not retained for 90 days.					-	-	-	10	28
3C*	Eggs found dirty/cracked; liquid, frozen or powdered eggs not pasteurized.					7	8	9	10	28

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

**APPENDIX 23-A
FOOD SERVICE ESTABLISHMENT INSPECTION WORKSHEET**

	CRITICAL VIOLATIONS					SCORE
	I	II	III	IV	V	
3D*	7	8	9	10	28	
3E*	-	-	-	10	28	
3F*	-	-	-	10	28	
3G	5	6	7	8	-	
FOOD PROTECTION						
4A	-	-	-	-	10	
4B*	-	-	-	10	28	
4C*	7	8	9	10	28	
4D*	-	-	-	10	28	
4E*	7	8	9	10	28	
4F*	-	-	-	10	28	
4G*	-	-	-	10	28	
4H*	7	8	9	10	28	
4I	5	6	7	8	-	
4J	-	-	-	8	-	
4K	5	6	7	8	28	
4L	5	6	7	8	28	
4M	5	6	7	8	28	
4N	5	6	7	8	28	

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**APPENDIX 23-A
FOOD SERVICE ESTABLISHMENT INSPECTION WORKSHEET**

		CONDITIONS					SCORE
		I	II	III	IV	V	
40	Live animals other than fish in tank or service animal present in facility's food and/or non-food areas.	5	6	7	8	-	-
FACILITY DESIGN							
5A*	Sewage disposal system improper or unapproved.	-	-	-	10	28	28
5B*	Harmful, noxious gas or vapor detected. CO ≥13 ppm.	-	-	-	10	28	28
5C+	Food contact surface improperly constructed or located. Unacceptable material used.	7	8	9	10	28	28
5D+	Hand washing facility not provided in or near food preparation area and toilet room. Hot and cold running water at adequate pressure to enable cleanliness of employees not provided at facility. Soap and an acceptable hand-drying device not provided.	-	-	-	10	28	28
5E+	Toilet facility not provided for employees or for patrons when required.	-	-	-	10	28	28
5F+	Insufficient or no refrigerated or hot holding equipment to keep potentially hazardous foods at required temperatures.	-	-	-	10	28	28
5G+	Properly enclosed service/maintenance area not provided. (Mobile Food Commissary)	-	-	-	10	28	28
5H+	No facilities available to wash, rinse and sanitize utensils and/or equipment.	-	-	-	10	28	28
5I+	Refrigeration used to implement HACCP plan not equipped with an electronic system that continuously monitors time and temperature.	-	-	-	10	28	28
PERSONAL HYGIENE & OTHER FOOD PROTECTION							
6A	Personal cleanliness inadequate. Outer garment soiled with possible contaminant. Effective hair restraint not worn in an area where food is prepared.	5	6	7	8	-	-
6B	Tobacco use, eating, or drinking from open container in food preparation, food storage or dishwashing area observed.	5	6	7	8	-	-
6C	Food not protected from potential source of contamination during storage, preparation, transportation, display or service.	5	6	7	8	-	-
6D	Food contact surface not properly washed, rinsed and sanitized after each use and following any activity when contamination may have occurred.	5	6	7	8	-	-
6E	Sanitized equipment or utensil, including in-use food dispensing utensil, improperly used or stored.	5	6	7	8	-	-
6F	Wiping cloths soiled or not stored in sanitizing solution.	5	6	7	-	-	-
6G*	HACCP plan not approved or approved HACCP plan not maintained on premises.	-	-	-	10	28	28
6H	Records and logs not maintained to demonstrate that HACCP plan has been properly implemented.	-	-	-	-	28	28
6I	Food not labeled in accordance with HACCP plan.	-	-	-	10	28	28

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**APPENDIX 23-A
FOOD SERVICE ESTABLISHMENT INSPECTION WORKSHEET**

		CONDITIONS					SCORE
		I	II	III	IV	V	
OTHER CRITICALS							
7A	Duties of an officer of the Department interfered with or obstructed.	-	-	-	-	-	28
CRITICAL VIOLATIONS							
CRITICAL VIOLATIONS TOTAL:							

		CONDITIONS					SCORE
		I	II	III	IV	V	
GENERAL VIOLATIONS							
VERMIN/GARBAGE							
8A	Facility not vermin proof. Harborage or conditions conducive to attracting vermin to the premises and/or allowing vermin to exist.	-	-	4	5	-	-
8B	Covered garbage receptacle not provided or inadequate, except that garbage receptacle may be uncovered during active use. Garbage storage area not properly constructed or maintained; grinder or compactor dirty.	2	3	4	5	-	-
8C	Pesticide use not in accordance with label or applicable laws. Prohibited chemical used/stored. Open bait station used.	2	3	4	5	-	28
FOOD SOURCE							
9A	Canned food product observed dented and not segregated from other consumable food items.	2	3	4	5	-	-
9B	Thawing procedures improper.	2	3	4	5	-	-
9C	Food contact surface not properly maintained.	2	3	4	5	-	-
FACILITY MAINTENANCE							
10A	Toilet facility not maintained and provided with toilet paper, waste receptacle and self-closing door.	2	3	4	5	-	-
10B	Plumbing not properly installed or maintained; anti-siphonage or backflow prevention device not provided where required; equipment or floor not properly drained; sewage disposal system in disrepair or not functioning properly.	2	3	4	5	-	28
10C	Lighting inadequate; permanent lighting not provided in food preparation areas, ware washing areas, and storage rooms.	2	3	4	5	-	-
10D	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	-	-

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**APPENDIX 23-A
FOOD SERVICE ESTABLISHMENT INSPECTION WORKSHEET**

		CONDITIONS					SCORE
		I	II	III	IV	V	
10E	Accurate thermometer not provided in refrigerated or hot holding equipment.	2	3	4	5	-	
10F	Non-food contact surface improperly constructed. Unacceptable material used. Non-food contact surface or equipment improperly maintained and/or not properly sealed, raised, spaced or movable to allow accessibility for cleaning on all sides, above and underneath the unit.	2	3	4	5	-	
10G	Food service operation occurring in room used as living or sleeping quarters.	2	3	4	5	-	
10H	Proper sanitization not provided for utensil ware washing operation.	2	3	4	5	-	
10I	Single service item reused, improperly stored, dispensed; not used when required.	2	3	4	5	-	
10J	Wash hands sign not posted at hand wash facility.	2	-	-	-	-	
OTHER GENERALS							
99B	Other general.	2	3	4	5	28	
GENERAL VIOLATIONS TOTAL:							
CRITICAL AND GENERAL COMBINED TOTAL:							

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

Thomas Farley, MD, MPH
Commissioner

December 2010

LETTER GRADING FOR SANITARY INSPECTIONS

What It Means for Restaurants and Consumers

Starting in July 2010, New York City is requiring certain food service establishments to post letter grades that correspond to their sanitary inspection scores. These questions and answers summarize the grading program.

OVERVIEW

Why is the Health Department issuing letter grades to restaurants?

The Health Department is issuing restaurant letter grades to help consumers make informed choices about where to eat out. Consumer awareness creates a powerful new incentive for restaurants to maintain the highest food safety standards.

Which establishments are graded?

Some food service establishments that require Health Department permits will receive and post letter grades that correspond to their sanitary inspection scores. These establishments include most restaurants, coffee shops, bars, nightclubs, cafeterias, retail bakeries, and fixed-site food stands. This document uses the term “restaurants” to refer to all these establishments.

Which establishments are not graded?

Letter grades are not being issued to mobile food vending units, temporary food service establishments, food service establishments operated by primary or secondary schools, hospital operated cafeterias, correctional facilities, charitable organizations (including soup kitchens or other prepared food distribution programs), or food service establishments operated by not-for-profit membership organizations, which serve food only to their members.

What are the grades, and what do they mean?

Grades reflect how well a restaurant complies with the food safety requirements of the New York City Health Code and the State Sanitary Code. When inspectors examine a restaurant’s sanitary conditions and practices, they assign numerical points for different violations of the Health Code. Different violations carry different numbers of points, depending on their nature and severity. The total number of violation points provides a measure of the restaurant’s general condition. Under the new system, the Health Department will use the scores from certain inspections to generate letter grades that are easier to interpret. Here are the grades:

- **Grade A.** 0 to 13 points for sanitary violations.
- **Grade B.** 14 to 27 points for sanitary violations.
- **Grade C.** 28 or more points for sanitary violations.
- **Grade Pending.** A restaurant’s B or C grade is not final until the restaurant has had the opportunity to go before the Health Department’s Administrative Tribunal to contest the violations cited against it. Until then, the restaurant has the option to post either the preliminary grade or a card that says “Grade Pending.” Once the grade is final, the restaurant must immediately post the letter grade card and take down the Grade Pending card.

How should consumers interpret grades of B or C?

In the first year or so of grading, we expect that most restaurants will earn a B grade. Restaurants with B or C grades should improve their overall food safety practices, but the Health Department immediately closes restaurants with conditions that may be hazardous to public health.

Where can I search for restaurants or learn more about a restaurant’s inspection history?

Visit nyc.gov/health/restaurants to see inspection details and to search for restaurants by grade, neighborhood, cuisine and more.

Will all restaurants have a grade when letter grading begins in July 2010?

No. It will take a little over a year to grade all of the city's existing restaurants. New restaurants are not graded until they have been open for a few weeks.

How did the Health Department respond to comments from the restaurant industry and consumers when designing the grading initiative?

Hundreds of New Yorkers offered comments while the grading initiative was being developed. The general public was overwhelmingly supportive, but some restaurant operators opposed the grading system. Industry representatives stressed the need to ensure that grades would be assigned fairly, that restaurants would have opportunities to improve their grades, and that grades would reflect only those conditions relevant to food safety. The Health Department addressed these concerns by designing a program that gives restaurants an automatic second chance to improve their scores after an initial inspection, as well as an opportunity for outside review of the inspection results. The agency also updated the inspection violation list so that restaurants are graded only for violations that affect food safety. These changes are intended to make the system as fair as possible for restaurant operators while protecting restaurant customers.

Has the inspection process changed with grading?

No, the Health Department has not changed the way it conducts inspections. The inspector still examines the establishment's sanitary conditions and then gives the operator a printed report listing the violations observed, the points for each violation, and the total number of points.

Have there been any changes made to the violations?

Yes, the Health Department has made some changes. The updated violation list defines the violations that letter grades are based on, and it specifies the number of points assigned to each violation depending on the extent or severity of the condition cited. A guide to "condition levels" describes the severity of each violation and provides examples. A description of the changes made to the checklist and condition levels is set out in the final rule. Documents are available at nyc.gov/health or by calling 311.

THE INSPECTION

Which inspections result in a grade?

The Health Department conducts several types of inspections to monitor sanitary conditions. Only some of these inspections result in a grade.

- **Inspection of New Restaurants.** The inspection conducted before a restaurant opens for the Health Department to determine whether to issue a permit is not graded. Once a restaurant is permitted to open, and shortly after it has begun operating, the Health Department will conduct graded inspections.
- **Initial Inspection.** Every restaurant is scheduled for an unannounced inspection at least once a year. A restaurant that scores 0 to 13 violation points on this inspection, called the "initial inspection," receives an A grade.
- **Re-inspection.** A restaurant that does not receive an A on its initial inspection does not receive a grade until it receives a re-inspection. The re-inspection will occur at least a week after the initial inspection, giving the restaurant a chance to improve its sanitary conditions. At the end of the re-inspection the restaurant will receive a grade card. If the grade is an A, the card must be posted immediately. If the grade is a B or C, the restaurant will also receive a card that says "Grade Pending." The restaurant has the choice of immediately posting either the grade card or the Grade Pending card until it has a chance to be heard at the Health Department's Administrative Tribunal.
- **Complaint-based Inspection.** If the Health Department conducts an inspection after receiving a complaint, it may choose to make that complaint inspection an initial or reinspection and therefore subject to grading.
- **Compliance Inspection.** A restaurant that receives 28 or more points on a re-inspection will receive a "compliance inspection" roughly 30 days after the re-inspection. The Department will continue to conduct compliance inspections roughly every 30 days until the restaurant scores under 28 points or is closed by the Department. The compliance inspections will not be graded.

Once the final grade is posted, when is a restaurant's next chance for a new grade?

How often a restaurant will be inspected and how soon it will be re-graded depend on the restaurant's sanitary score. Higher-scoring restaurants are inspected more frequently than lower-scoring restaurants.

- A restaurant that scores 0-13 points on its initial inspection receives an A and will not be inspected again for about a year.
- A restaurant that scores 14-27 points on either its initial or re-inspection, but not more than 28 points, receives its next initial inspection about 5 to 7 months after the re-inspection.
- A restaurant that scores 28 or more points on its initial or re-inspection receives its next initial inspection about 3 to 5 months after its inspection cycle ends. The inspection cycle ends when the restaurant scores below 28 points on a compliance inspection.

POSTING THE GRADE CARDS

Where does the restaurant have to post the grade card?

The grade (or grade pending) card must be posted on a front window, door or outside wall where it is easily seen by people passing by. The card must be within 5 feet of the entrance and from 4 to 6 feet off the ground or floor.

Is there a penalty for not posting a current grade card?

Yes. The Health Department will issue a notice of violation to any restaurant that fails to post the required grade or Grade Pending card, or fails to post it in the required location. These may result in substantial fines.

What happens if a grade card is lost or damaged?

Once a grade card (or grade pending card) must be posted, the restaurant must display it at all times. If a grade card is damaged or lost, the restaurant operator can pick up a replacement card at the Health Department's Bureau of Food Safety and Community Sanitation, 253 Broadway, 12th floor, in Manhattan.

Does the Health Department track each grade card?

Yes. The Health Department carefully tracks each grade card. A serial number printed on the card is traceable to the restaurant and the inspector who assigns it. Posting an incorrect grade card – whether the wrong grade or a card assigned to another restaurant – is a serious violation that may result in penalties and suspension of a restaurant's permit.

What should the restaurant do with its out-of-date grade card or Grade Pending card?

A card that is no longer current must be destroyed.

CLOSURES

Does grading change the procedures for closing restaurants?

No. The Health Department continues to close establishments if it finds serious and persistent violations or an uncorrected public health hazard.

What happens to a grade if the Health Department closes the restaurant?

If the Health Department closes a restaurant, it removes the grade card and posts a closure sign. If the closure occurs on an initial inspection, the restaurant has to post a Grade Pending card once it's authorized to re-open. If the closure occurs on a re-inspection, the restaurant has the choice of posting its re-inspection grade or Grade Pending card when it re-opens. If the closing occurs on a compliance inspection, once it's authorized to re-open, the restaurant has to re-post the grade card that had been posted before the restaurant was closed.

ADMINISTRATIVE TRIBUNAL HEARINGS

Can restaurants contest violations at the Administrative Tribunal?

Yes, a restaurant can contest violations cited on a notice of violation at the Administrative Tribunal. The Health Department automatically schedules a Tribunal hearing date at the end of each inspection where a notice of violation is issued and notifies the restaurant of the hearing date.

If the Tribunal hearing examiner dismisses a violation does the restaurant's grade change?

If the hearing examiner dismisses a violation, the inspection score is recalculated. If the new score corresponds to a different grade, the restaurant will receive a new grade card, which must be posted immediately. If the re-calculated score does not change the grade, the establishment must immediately post the grade card it received at the re-inspection.

If the Tribunal decision changes a restaurant's grade, does it change the inspection schedule?

No.

What if the restaurant can't attend the hearing, or wants the inspector present for the hearing?

If the restaurant postpones its first hearing date (asks for an "adjournment") or requests the inspector's attendance and the Health Department is unable to accommodate the request, a second hearing date is set. While waiting for the second hearing, the restaurant can post either the grade card or the Grade Pending card.

What if the restaurant can't attend the second hearing date?

If a restaurant's operator or representative does not attend the hearing on the second date, or at the second hearing date asks for the first time for the inspector to be present, the hearing will be rescheduled. But the restaurant can no longer post the Grade Pending card. It must immediately post the grade card it received at the re-inspection and discard the Grade Pending card. If the Health Department or hearing examiner, rather than the restaurant, adjourns a hearing date for any reason (including to request the inspector's testimony), then that adjournment will not count as one of the restaurant's two opportunities for a hearing before having to post its grade card.

When does the restaurant post its grade card if the hearing examiner's decision is sent by mail?

In certain circumstances, the restaurant will receive the hearing examiner's decision by mail. If the mailed decision results in a new grade, a new grade card will be included with the decision and the restaurant must post it immediately after receiving it. If the decision does not result in a new grade, immediately after receiving the decision, the restaurant must post the grade card it received at the reinspection.

Does a restaurant have to appear at the automatically scheduled hearing at the Administrative Tribunal?

No. The Tribunal now offers restaurants the opportunity to settle and pay a discount on the fines for notices of violation. Settlement can be done online, by mail, or at the Tribunal. Information about settlement is included with the notice of violation.

When does the restaurant post its grade card if it settles the notice of violation?

If a restaurant settles the notice of violation, it must immediately post the grade card issued during the re-inspection.

IMPROVING THE GRADE**How can a restaurant improve its grade?**

Here are some steps that restaurants can take:

- Correct violations cited during an inspection.
- Train supervisors to regularly evaluate the establishment's condition and employee practices.
- Make sure food workers are supervised by someone with a Food Protection Certificate.
- Train all employees who handle food in food protection. Employees can study the Health Department's food protection course at no cost by visiting nyc.gov/health. They can also enroll in the food protection course, or the more advanced Quality Improvement Food Protection Course, offered by the agency's Health Academy.
- Read food protection fact sheets and booklets available free of charge and in several languages at nyc.gov/health.
- Use the Self-Inspection Worksheet, similar to the violation list used by inspectors, to conduct weekly self-inspections and uncover areas in need of improvement. The Worksheet is available at no cost at nyc.gov/health.
- To avoid lapses in safe food handling, review the Guide to Condition Levels, available at nyc.gov/health. It includes examples of how violations are cited.

**APPENDIX 23-B
FOOD SERVICE ESTABLISHMENT INSPECTION SCORING PARAMETERS – A GUIDE TO CONDITIONS**

Violation		Condition I	Condition II	Condition III	Condition IV	Condition V
CRITICAL VIOLATIONS						
2A*	Food not cooked to required minimum temperature.	One hot food item out of temperature in one area. Example: one tray of chicken wings held at 115°F.	Two hot food items out of temperature or the same type of food out of temperature in two different areas. Example: one tray of chicken wings and a pot of rice held at 115°F; or one tray of chicken wings on the steam table and one tray of chicken wings in the food preparation area held at 115°F.	Three hot food items out of temperature or the same type of food out of temperature in three different areas. Example: one tray of chicken wings, a pot of rice and platter of roast beef held at 115°F; or one tray of chicken wings on the steam table, one tray of chicken wings in the food preparation area and one basket of chicken near the deep fryer held at 115°F.	Failure to properly cook meats, comminuted meats, and other potentially hazardous foods (PHFs), unless a consumer specifically asks for a serving of item ordered to be cooked below the minimum temperature.	Failure to correct any condition of a PHH at the time of inspection. Inspector must call office to discuss closing or other enforcement measures.
2B*	Hot food item not held at or above 140°F.	One hot food item out of temperature in one area. Example: one tray of chicken wings held at 115°F.	Two hot food items out of temperature or the same type of food out of temperature in two different areas. Example: one tray of chicken wings and a pot of rice held at 115°F; or one tray of chicken wings on the steam table and one tray of chicken wings in the food preparation area held at 115°F.	Three hot food items out of temperature or the same type of food out of temperature in three different areas. Example: one tray of chicken wings, a pot of rice and platter of roast beef held at 115°F; or one tray of chicken wings on the steam table, one tray of chicken wings in the food preparation area and one basket of chicken near the deep fryer held at 115°F.	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 chicken wings, a pot of rice, platter of roast beef andureen of beef stew held at 115°F; or one tray of chicken wings on the steam table, one tray of chicken wings in the food preparation area, one basket of chicken near the deep fryer and a rotisserie machine filled with eleven chickens held at 115°F.	Failure to correct any condition of a PHH at the time of inspection. Inspector must call office to discuss closing or other enforcement measures.
2C	Hot food item that has been cooked and refrigerated is being held for service without first being reheated to 165°F or above within 2 hours.	One cooked and refrigerated hot food item not reheated to 165°F before service. Example: chicken soup.	Two cooked and refrigerated hot food items not reheated to 165°F before service. Example: chicken soup and baked ham.	Three cooked and refrigerated hot food items not reheated to 165°F before service. Example: chicken soup, baked ham and sliced turkey.	Four or more cooked and refrigerated hot food items not reheated to 165°F before service. Example: chicken soup, baked ham, sliced turkey, meatloaf and lobster bisque.	

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**APPENDIX 23-B
FOOD SERVICE ESTABLISHMENT INSPECTION SCORING PARAMETERS – A GUIDE TO CONDITIONS**

Violation	Condition I	Condition II	Condition III	Condition IV	Condition V
2D Precooked potentially hazardous food from commercial food processing establishment that is supposed to be heated, but is not heated to 140°F within 2 hours.	One precooked commercially prepared food not heated to 140°F. Example: beef patties.	Two pre-cooked commercially prepared foods not heated to 140°F. Example: beef patties and clam chowder.	Three pre-cooked commercially prepared foods not heated to 140°F. Example: beef patties, clam chowder and smoked turkey.	Four or more pre-cooked commercially prepared foods not heated to 140°F. Example: beef patties, clam chowder, smoked turkey, corned beef and gyros.	
2E Whole frozen poultry or poultry breasts, other than a single portion, are being cooked frozen or partially thawed.	One whole poultry or poultry breast being cooked from a frozen state. Example: chicken breast.	Two or more whole poultry or poultry breasts being cooked from a frozen state. Example: chicken breast, whole chicken, turkey breast and duck.	Note: For failure to properly cook poultry to the required minimum temperature, *2A cited.		
2F Meat, fish or molluscan shellfish served raw or undercooked without prior notification to customer.	One cold food item out of temperature in one area. Example: one slab of unsliced smoked salmon or packet or tray of smoked salmon slices above 38°F or one tray of potato salad above 41°F in service display case.	Two cold food items out of temperature or the same food item out of temperature in 2 different areas. 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 and garlic in oil mixture above 41°F.	Three cold food items out of temperature. 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.	Four cold food items out of temperature. 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.	Failure to properly cook meats, comminuted meats, fish, shellfish and other PHFs, unless a consumer specifically asks for their order to be cooked below the minimum temperature.
2G* Cold food item held above 41°F (smoked fish and Reduced Oxygen Packaged food above 38°F), except during necessary preparation.	One cold food item out of temperature in one area. Example: one slab of unsliced smoked salmon or packet or tray of smoked salmon slices above 38°F or one tray of potato salad above 41°F in service display case.	Two cold food items out of temperature or the same food item out of temperature in 2 different areas. 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 and garlic in oil mixture above 41°F.	Three cold food items out of temperature. 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.	Four cold food items out of temperature. 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.	Failure to correct any condition of a PHH at the time of inspection. Inspector must call office to discuss closing or other enforcement measures.

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**APPENDIX 23-B
FOOD SERVICE ESTABLISHMENT INSPECTION SCORING PARAMETERS – A GUIDE TO CONDITIONS**

	Violation	Condition I	Condition II	Condition III	Condition IV	Condition V
2H*	Food not cooled by an approved method whereby the internal product 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.	One food item not cooled by approved method. Example: one whole, cooked turkey.	Two food items not cooled by approved method. Example: two whole, cooked turkeys.	Three food items not cooled by approved method. Example: two whole, cooked turkeys and one container of deep pot chicken stew.	Four or more food items not cooled by approved method. Example: two whole, cooked turkeys, one container of deep pot chicken stew and 10 pounds of cooked rice.	Failure to correct any condition of a PHH at the time of inspection. Inspector must call office to discuss closing or other enforcement measures.
2I	Food prepared from ingredients at ambient temperature not cooled to 41°F or below within four hours.	One food item prepared from ambient temperature ingredients not cooled to 41°F. Example: tuna salad prepared with canned tuna above 41°F.	Two food items prepared from ambient temperature ingredients not cooled to 41°F. Example: tuna and salmon salads prepared with canned tuna and salmon above 41°F.	Three food items prepared from ambient temperature ingredients not cooled to 41°F. Example: tuna and salmon salads prepared with canned tuna and salmon, and open can of sardines above 41°F.	Four or more food items prepared from ambient temperature ingredients not cooled to 41°F. Example: tuna and salmon salads prepared with canned tuna and salmon, and open cans of sardines and anchovies above 41°F.	
2J*	Reduced Oxygen Packaged (ROP) food not cooled by an approved method whereby the internal product temperature is reduced to 38°F within two hours of cooking and if necessary further cooled to a temperature of 34°F within six hours of reaching 38°F.	One ROP food item not cooled by approved method. Example: ROP beef stew (twelve 4 oz packages).	Two ROP food items not cooled by approved method. Example: ROP beef stew (twelve 4 oz packages) and ROP chicken fricassee (two – 2 lb packages).	Three ROP food items not cooled by approved method. Example: ROP beef stew (twelve 4 oz packages), ROP chicken fricassee (two 2 lb packages) and ROP pork tenderloin (sixteen 8 oz packages).	Four ROP food items not cooled by approved method. Example: ROP beef stew (twelve 4 oz packages), ROP chicken fricassee (two 2 lb packages), ROP pork tenderloin (sixteen 8 oz packages) and meat sauce (six 1lb packages).	Failure to correct any condition of a PHH at the time of inspection. Inspector must call office to discuss closing or other enforcement measures.
3A*	Food from unapproved or unknown source or home canned; Reduced Oxygen Packaged (ROP) fish not frozen before processing; or ROP food prepared on premises transported to another site.				One or more food items not from an approved source, or home canned. Example: wild mushrooms or home canned jellies or ROP fish not frozen before processing.	Failure to correct any condition of a PHH at the time of inspection. Inspector must call office to discuss closing or other enforcement measures.

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**APPENDIX 23-B
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	Violation	Condition I	Condition II	Condition III	Condition IV	Condition V
3B*	Shellfish not from approved source, improperly tagged/ labeled; tags not retained for 90 days.				One or more containers or kinds of shellfish not from an approved source, improperly tagged/ labeled; tags not retained for 90 days. Example: clams not tagged, oyster tags not retained for 90 days, mussels improperly labeled and mussels not tagged.	Failure to correct any condition of a PHH at the time of inspection. Inspector must call office to discuss closing or other enforcement measures.
3C*	Eggs found dirty/ cracked; liquid, frozen or powdered eggs not pasteurized.	1-6 dirty/cracked eggs or liquid, frozen, or powdered eggs not pasteurized. Example: Four dirty and/ or cracked eggs; or one container of unpasteurized liquid eggs.	7-12 dirty/cracked eggs; or 2 containers of liquid, frozen, or powdered eggs not pasteurized. Example: Nine dirty and/ or cracked eggs; or two containers of unpasteurized liquid eggs.	13-24 dirty/cracked eggs; or three containers of liquid, frozen, or powdered eggs not pasteurized. Example: 16 dirty and/ or cracked eggs; or 14 dirty and/ or cracked eggs and two containers of unpasteurized liquid eggs.	25 or more dirty/cracked eggs; or four containers of liquid, frozen, or powdered eggs not pasteurized. Example: 25 or more dirty and/ or cracked eggs; or 18 dirty and/ or cracked eggs and one container of unpasteurized liquid eggs.	Failure to correct any condition of a PHH at the time of inspection. Inspector must call office to discuss closing or other enforcement measures.
3D*	Cans of food products swollen, leaking or rusted and not segregated from consumable food.	1-6 cans of food products 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.	7-12 cans of food products swollen, leaking or rusted 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.	13-18 cans of food products 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.	19 or more cans of food products 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.	Failure to correct any condition of a PHH at the time of inspection. Inspector must call office to discuss closing or other enforcement measures.
3E*	Potable water supply inadequate. Water or ice not potable or from unapproved source. Cross connection in potable water supply system.				Potable water supply inadequate. Water or ice not potable or from unapproved source. Cross connection in potable water supply system.	Failure to correct any condition of a PHH at the time of inspection. Inspector must call office to discuss closing or other enforcement measures.

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3F*	Unpasteurized milk or milk product present.				Unpasteurized milk or milk product present.	Failure to correct any condition of a PHH at the time of inspection. Inspector must call office to discuss closing or other enforcement measures.
3G*	Raw food not properly washed prior to serving.	one kind of raw food type not properly washed prior to serving. Example: two heads of lettuce.	two kinds of raw food types not properly washed prior to serving. Example: two heads of lettuce and one bunch of carrots.	three kinds of raw food types not properly washed prior to serving. Example: two heads of lettuce, one bunch of carrots and one bunch of broccoli.	four or more kinds of raw food types not properly washed prior to serving. Example: two heads of lettuce, one bunch of carrots, one bunch of broccoli and one head of cabbage.	
4A	Food Protection Certificate (FPC) not held by supervisor of food operations.					FPC not held by the supervisor of food operations.
4B*	Food worker prepares food or handles utensil when ill with a disease transmissible by food or has exposed infected cut or burn on hand.				Food worker prepares food or handles utensil when ill with a disease transmissible by food or has exposed infected cut or burn on hand.	Failure to correct any condition of a PHH at the time of inspection. Inspector must call office to discuss closing or other enforcement measures.
4C*	Food worker does not use proper utensil to eliminate bare hand contact with food that will not receive adequate additional heat treatment.	One food worker preparing ready-to-eat food with bare hands. Example: one food worker at front food preparation area preparing a sandwich.	Two food workers preparing ready-to-eat foods with bare hands. Example: one food worker at front food preparation area preparing a sandwich and one food worker in kitchen preparing Caesar salad.	Three food workers preparing ready-to-eat foods with bare hands. Example: one food worker at front food preparation area preparing a sandwich, one food worker in kitchen preparing Caesar salad and one food worker in basement preparing shrimp cocktail.	Four or more food workers preparing ready-to-eat foods with bare hands. Example: two food workers at front food preparation area preparing sandwiches, one food worker in kitchen preparing Caesar salad and one food worker in basement preparing shrimp cocktail.	Failure to correct any condition of a PHH at the time of inspection. Inspector must call office to discuss closing or other enforcement measures.

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	Violation	Condition I	Condition II	Condition III	Condition IV	Condition V
4D*	Food worker does not wash hands thoroughly after using the toilet, coughing, sneezing, preparing raw foods or otherwise contaminating hands.				Food worker does not wash hands after visiting the toilet, coughing, sneezing, preparing raw foods or otherwise contaminating hands.	Failure to correct any condition of a PHH at the time of inspection. Inspector must call office to discuss closing or other enforcement measures.
4E*	Toxic chemical improperly labeled, stored or used so that contamination of food may occur.	One toxic chemical improperly labeled, stored or used so that contamination of food may occur. Example: roach spray.	Two toxic chemicals improperly labeled, stored or used so that contamination of food may occur. Example: roach spray and bleach.	Three toxic chemicals improperly labeled, stored or used so that contamination of food may occur. Example: roach spray, bleach and butane.	Four or more toxic chemicals improperly labeled, stored, or used so that contamination of food may occur. Example: roach spray, bleach, butane and rat poison.	Failure to correct any condition of a PHH at the time of inspection. Inspector must call office to discuss closing or other enforcement measures.
4F*	Food, food preparation area, food storage area or area used by employees or patrons contaminated by sewage or liquid waste.				Food, food preparation area, food storage area or area used by employees or patrons contaminated by sewage or liquid waste.	Failure to correct any condition of a PHH at the time of inspection. Inspector must call office to discuss closing or other enforcement measures.
4G*	Unprotected potentially hazardous food re-served.				Unprotected potentially hazardous food re-served. Example: bowl of cooked rice re-served.	Failure to correct any condition of a PHH at the time of inspection. Inspector must call office to discuss closing or other enforcement measures.

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	Violation	Condition I	Condition II	Condition III	Condition IV	Condition V
4H*	Raw, cooked or prepared food is adulterated, contaminated or cross-contaminated, or not discarded in accordance with HACCP plan.	One food item is spoiled, adulterated, contaminated or cross-contaminated. Example: lettuce contaminated by raw chicken or custard cream contaminated by mice droppings; or one package of ROP chicken not discarded in accordance with HACCP plan.	Two food items or two batches of 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; or ROP beef stew and ROP chicken fricassee not discarded in accordance with HACCP Plan.	Three food items or three batches 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 ROP beef stew, ROP chicken fricassee and ROP pork tenderloin not discarded in accordance with HACCP Plan; or a tray of chicken contaminated with mice droppings in walk-in 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.	Four or more food items or four or more batches 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 ROP beef stew, ROP chicken fricassee, ROP pork tenderloin and meat sauce not discarded in accordance with HACCP Plan; or a tray of chicken contaminated with mice droppings in an upper level walk-in 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 droppings in the basement walk-in refrigerator.	Failure to correct any condition of a PHH at the time of inspection. Inspector must call office to discuss closing or other enforcement measures.
4I	Unprotected food re-served.	One unprotected food item re-served. Example: unwrapped crackers.	Two unprotected foods items re-served. Example: unwrapped crackers and bread.	Three unprotected food items re-served. Example: unwrapped crackers, bread and pickles.	Four or more unprotected food items re-served. Example: unwrapped crackers, bread, pickles and breadsticks.	

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4J	Appropriately scaled metal stem-type thermometer or thermocouple not provided or used to evaluate temperatures of potentially hazardous foods during cooking, cooling, reheating and holding.				Appropriate thermometer(s) or thermocouple not provided or used to measure the temperature of potentially hazardous foods.	
4K	Evidence of rats or live rats present in facility's food and/or non-food areas.	Rats present in the facility's food or non-food areas. Example: 1-10 fresh rat droppings in one area.	Rats present in the facility's food or non-food areas, demonstrated by 11-30 fresh rat droppings in one area or 1-10 fresh rat droppings in two areas. Example: 25 fresh rat droppings in the food preparation area; or 10 fresh rat droppings in dry food storage area and 10 fresh rat droppings in the basement, food preparation area, bathroom and garbage disposal area.	Rats present in the facility's food or non-food areas, demonstrated by 31-70 rat droppings one area; 11-30 fresh rat droppings in two areas; or 1-10 fresh rat droppings in three areas. Example: 55 fresh rat droppings in food preparation area; or 14 fresh rat droppings in dry food storage area and 10 fresh rat droppings in the basement, food preparation area, bathroom and garbage disposal area.	Rats present in the facilities food or non-food areas, demonstrated by 1-2 live rats and/or 71-100 rat droppings in one area; 31-70 fresh rat droppings in two areas; 11-30 fresh rat droppings in three areas; or 1-10 fresh droppings in four areas. Example: 80 fresh rat droppings in food preparation area; or 30 fresh rat droppings in dry food storage area and 16 in basement or less than 10 fresh rat droppings in basement, food prep.	Three or more live rats and/or greater 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.

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Violation	Condition I	Condition II	Condition III	Condition IV	Condition V
4L Evidence of mice or live mice present in facility's food and/or non-food areas.	Mice present in the facility's food or non-food areas; 1-10 fresh mice droppings in one area. Example: eight fresh mice droppings found in pantry.	Mice present in the facility's food or non-food areas. 11-30 fresh mice droppings in one area; or 1-10 in two areas. Example: 25 fresh mice droppings in the food preparation area; or 10 fresh mice droppings in dry food storage area and 10 in the basement.	Mice present in the facility's food or non-food areas. 31-70 mice droppings in one area, 11-30 in two areas; or 1-10 in three areas. Example: 55 fresh mice droppings in food preparation area; 14 fresh mice droppings in dry food storage area and 16 in basement; or fewer than 10 fresh mice droppings in the basement, food preparation area and bathroom.	Mice present in the facility's food or non-food areas; 1-2 live mice and/or 71-100 mice droppings in one area; 31-70 in two areas, 11-30 in three areas; or 1-10 in four areas. Example: 80 fresh mice droppings in food preparation area; 30 fresh mice droppings in dry food storage area and 16 in basement; or fewer than 10 fresh mice droppings in basement, food preparation area, bathroom and garbage disposal area.	Two or more live mice and/or greater than 100 fresh mice droppings; and/or other conditions exist conducive to infestation of mice. Example: holes/openings, water, food, unused equipment/material. Inspector must call office to discuss closing or other enforcement measures.
4M Live roaches present in facility's food and/or non-food areas.	Roaches present in the facility's food and non-food areas. Example: two live roaches in the dry-food area.	Roaches present in the facility's food and non-food areas. 6-10 roaches in one area; or 1-5 in two areas. Example: seven live roaches in the food preparation area; or two roaches in the dry food storage area and one in the basement.	Roaches present in the facility's food and non-food areas; 11-15 roaches in one area; 6-10 in two areas; or 1-5 in three areas. Example: 12 live roaches in the food preparation area; four roaches in the dry food storage area and five roaches in the basement; or one live roach observed in walk-in, food preparation area and dry storage.	Roaches present in the facility's food and non-food areas; 16-20 roaches in one area, 11-15 in two areas; 6-10 in three areas; or 1-5 in four areas. Example: 17 live roaches in the food preparation area; 10 roaches in the dry food storage area and five roaches in the basement; or one live roach observed in walk-in, food preparation area, garbage area and dry storage area.	Greater than 20 live roaches and/or other conditions exist conducive to infestation of roaches. Example: 45 live roaches and condition conducive to infestation such as holes/openings, water, food, unused equipment/material. Inspector must call office to discuss closing or other enforcement measures.

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Violation	Condition I	Condition II	Condition III	Condition IV	Condition V
4N Fifth flies or food/refuse/ sewerage/associated (FRSA) flies in facility's food and/or non-food areas. Fifth flies include house flies, little house flies, blow flies, bottle flies and flesh flies. Food/refuse/sewage/ associated flies include fruit flies, drain flies and Phorid flies.	2-5 fifth flies or FRSA flies in the food preparation or food storage area during November 1 through March 1. Example: two flies in dry non-food area in January.	6-10 fifth flies or FRSA flies in one area; or 2-5 fifth flies in two areas. Example: seven live flies in food preparation area; or two flies in the dry food storage area and one in basement.	11-15 fifth flies or FRSA flies in one area; 6-10 in two areas; or 2-5 flies in three areas. Example: 12 live flies in food preparation area; four flies in the dry food storage area and five flies in basement; or one fly observed in walk-in refrigerator, food preparation area and dry storage area.	16-20 fifth flies or FRSA flies in one area; 11-15 in two areas; 6-10 fifth flies in three areas; or 1-5 in four areas. Example: 17 fifth flies in food preparation area; 10 fifth flies in dry food storage area and five fifth flies in basement; or two fifth flies observed in walk-in refrigerator, food preparation area, garbage area and dry storage area.	More than 30 fifth flies, FRSA flies and/or other conditions exist conducive to infestation of fifth flies. Example: 40 flies in the basement garbage area; and other conditions exist conducive to fifth fly infestation, e.g., openings to the outer air, water, food, decaying matter, and/or sewage. Inspector must call office to discuss closing or other enforcement measures.
4O Live animal other than fish in tank or service animal present in facility's food and/or non-food areas.	Live animal in establishment.	Two live animals in establishment.	Three live animals in establishment.	Four or more live animals in establishment.	
5A* Sewage disposal system improper or unapproved.				Sewage or liquid waste is not disposed of in an approved or sanitary manner; or sewage or liquid waste contaminating food, food storage area, food preparation area, or area frequented by consumers or employees or used as a storage, preparation or utility area.	Failure to correct any condition of a PHH at the time of inspection. Inspector must call office to discuss closing or other enforcement measures.
5B* Harmful, noxious gas or vapor detected. CO ≥ 13 ppm.				Harmful, noxious gas or vapor detected. CO equal to or greater than 13ppm.	Failure to correct any condition of a PHH at the time of inspection. Inspector must call office to discuss closing or other enforcement measures.

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	Violation	Condition I	Condition II	Condition III	Condition IV	Condition V
5C+	Food contact surface improperly constructed or located; or unacceptable material used.	One food contact surface or piece of equipment improperly constructed, located and/or unacceptable material used. Example: painted shelves in a walk-in unit.	Two food contact surfaces or pieces of equipment improperly constructed, located and/or unacceptable material used. Example: painted shelves in a walk-in unit and cutting board made from untreated wood.	Three food contact surfaces or pieces of equipment improperly constructed, located, and/or unacceptable material used. Example: painted shelves of a walk-in unit, cutting board made from untreated wood and acidic foods placed in pewter bowl.	Four or more contact surfaces or pieces of equipment improperly constructed, located, and/or unacceptable material used. Example: painted shelves in a walk-in unit, cutting board made from untreated wood, acidic food placed in pewter bowl and solder and flux used to repair food contact equipment.	Failure to correct as pre-permit serious (PPS) on an initial inspection, re-inspection, or compliance inspection results in a follow up inspection, and/or closure. Inspector must call office to discuss closing or other enforcement measures.
5D+	Hand washing facility not provided in or near food preparation area and toilet room. Hot and cold running water at adequate pressure to enable cleanliness of employees not provided at facility. Soap and an acceptable hand-drying device not provided.				Fully equipped hand wash sinks, to include soap and paper towels not provided or conveniently located in all food preparation areas.	Failure to correct as pre-permit serious (PPS) on an initial inspection, re-inspection, or compliance inspection results in a follow up inspection, and/or closure. Inspector must call office to discuss closing or other enforcement measures.
5E+	Toilet facility not provided for employees or for patrons when required				Toilet facility not provided for employees or for patrons when required.	Failure to correct as pre-permit serious (PPS) on an initial inspection, re-inspection, or compliance inspection results in a follow up inspection, and/or closure. Inspector must call office to discuss closing or other enforcement measures.

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5F+	Insufficient or no refrigerated or hot holding equipment to keep potentially hazardous foods at required temperatures.				Refrigerated or hot holding equipment for PHFs not provided.	Failure to correct as pre-permit serious (PPS) on an initial inspection, re-inspection, or compliance inspection results in a follow up inspection, and/or closure. Inspector must call office to discuss closing or other enforcement measures.
5G+	Separate, enclosed, properly equipped cleaning and service area not provided. (Mobile Vending Commissary)				Separate, enclosed, properly equipped cleaning and service area not provided.	Failure to correct as pre-permit serious (PPS) on an initial inspection, re-inspection, or compliance inspection results in a follow up inspection, and/or closure. Inspector must call office to discuss closing or other enforcement measures.
5H+	No facilities available to wash, rinse, and sanitize utensils and/or equipment.				No facility available to wash, rinse, and sanitize utensils and equipment.	Failure to correct. Inspector must call office to discuss enforcement measures.
5I+	Refrigeration used to implement HACCP plan not equipped with an electronic system that continuously monitors time and temperature.				Refrigeration used to implement HACCP plan not equipped with an electronic system that continuously monitors time and temperature.	Inspector must call office to discuss closing or other enforcement measures.
6A	Personal cleanliness inadequate. Outer garment soiled with possible contaminant. Effective hair restraint not worn in an area where food is prepared.	One food worker observed without clean outer garment or hair restraint.	Two food workers observed without clean outer garments and/or hair restraints.	Three food workers observed without clean outer garments and/or hair restraints.	Four or more food workers observed without clean outer garments and/or hair restraints.	

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6B	Tobacco use, eating, or drinking from open container in food preparation, food storage or dishwashing area.	One food worker eating, smoking and/or drinking from open container in food or ware washing areas or evidence of tobacco use, eating or drinking in food preparation, food storage and dishwashing area.	Two food workers eating, smoking and/or drinking from open container in food or ware washing areas.	Three food workers eating, smoking and/or drinking from open container in food or ware washing areas.	Four or more food workers eating, smoking and/or drinking from open container in food or ware washing areas.	
6C	Food not protected from potential source of contamination during storage, preparation, transportation, display or service.	One food item not protected during storage, preparation, transportation, display or service.	Two food items not protected during storage, preparation, transportation, display or service.	Three food items not protected during storage, preparation, transportation, display or service.	Four or more food items not protected during storage, preparation, transportation, display or service.	
6D	Food contact surface not washed, rinsed and sanitized after each use and following any activity when contamination may have occurred.	One food contact surface not washed, rinsed or sanitized after any activity when contamination may have occurred. Example: Meat slicer encrusted with old food debris.	Two food contact surfaces not washed, rinsed or sanitized after any activity when contamination may have occurred. Example: Meat slicer and cutting board encrusted with old food debris.	Three food contact surfaces not properly washed, rinsed or sanitized after any activity when contamination may have occurred. Example: Meat slicer, wooden cutting board, and can opener encrusted with old food debris.	Four or more food contact surfaces not properly washed, rinsed or sanitized after any activity when contamination may have occurred. Example: Meat slicer, wooden cutting board, can opener, and food preparation table encrusted with old food debris, and the interior of the ice machine observed with mold.	
6E	Sanitized equipment or utensil, including in-use food dispensing utensil, improperly used or stored.	One sanitized piece of equipment or utensil improperly used or stored	Two sanitized pieces of equipment or utensils improperly used or stored.	Three sanitized pieces of equipment or utensils improperly used or stored.	Four or more sanitized pieces of equipment or utensils improperly used or stored.	

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	Violation	Condition I	Condition II	Condition III	Condition IV	Condition V
6F	Wiping cloths soiled or not stored in sanitizing solution.	Two or more wiping cloths 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.	Two or more wiping clothes 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; or wiping cloths used to clean food contact surfaces not stored in sanitizing solution and test kit to measure sanitizing solution to ensure proper sanitization of wiping cloths not provided.	Two 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.		
6G	HACCP plan not approved or approved HACCP plan not maintained on premises.				Approved HACCP plan not maintained on premises.	HACCP plan not approved. Inspector must call office to discuss enforcement measures.
6H	Records and logs not maintained to show HACCP plan has been properly implemented.					Record and logs not maintained to show HACCP plan has been properly implemented. Inspector must call office to discuss corrective action or other enforcement measures.
6I	Food not labeled in accordance with HACCP plan.				Food not labeled in accordance with HACCP plan.	Inspector must call office to discuss corrective action or other enforcement measures.
7A	Duties of an officer of the department interfered with or obstructed.					Duties of an officer of the department interfered with or obstructed.

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GENERAL VIOLATIONS					
8A	Facility not vermin proof. Harborage or conditions conducive to attracting vermin to the premises and/or allowing vermin to exist.		Doors and door thresholds not adequately pest proofed, and/or one or two openings in the facility façade (walls, floors, ceilings) and/or other condition conducive to pest entry or breeding.	Doors and door thresholds not adequately pest proofed, with quality materials, and/or three or more openings in the facility façade (walls, floors, ceilings) or other condition conducive to pest entry or breeding.	
8B	Covered garbage receptacle not provided or inadequate, except that garbage receptacle may be uncovered during active use. Garbage storage area not properly constructed or maintained; grinder or compactor dirty.	Garbage equipment and facilities not maintained or provided. Example: tight-fitting lids not provided for 32-gallon garbage can used to put garbage out overnight.	Garbage equipment and facilities not maintained or provided. Example: tight-fitting lids not provided for two 32-gallon garbage cans used to put garbage out overnight and garbage grinder encrusted with old food.	Garbage equipment and facilities not maintained or provided. Example: tight-fitting lids not provided for two 32-gallon garbage cans used to put garbage out overnight, garbage grinder encrusted with old food wrappers and 15 empty carton of milk strewn in the backyard.	
8C	Pesticide use not in accordance with label or applicable laws. Prohibited chemical used/stored. Open bait station used.	Two types of prohibited pesticides, chemicals or bait stations not used in accordance with label or applicable laws.	Three types of prohibited pesticides, chemicals or bait stations not used in accordance with label or applicable laws.	Four or more types of prohibited pesticides, chemicals or bait stations not used in accordance with label or applicable laws.	Failure to correct. Inspector must call office to discuss enforcement measures.
9A	Canned food product dented and not segregated from consumable food.	7-12 cans dented. Example: seven dented cans of tomato paste stored on food storage shelf not segregated.	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.	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.	

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**APPENDIX 23-B
FOOD SERVICE ESTABLISHMENT INSPECTION SCORING PARAMETERS – A GUIDE TO CONDITIONS**

Violation	Condition I	Condition II	Condition III	Condition IV	Condition V
9B Thawing procedures improper.	One frozen food item improperly thawed. Example: whole chicken or beefsteak improperly thawed.	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 kitchen counter.	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 kitchen counter, and chicken breast improperly thawed in bowl in food preparation area.	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.	
9C Food contact surface not properly maintained.	One food contact surface not properly maintained. Example: one cutting board discolored.	Two food contact surfaces not properly maintained. Example: one cutting board discolored and one plastic cutting board pitted and scratched.	Three food contact surfaces not properly maintained. Example: three cutting boards pitted and scratched.	Four or more contact surfaces not properly maintained. Example: three cutting board pitted and scratched and four cutting boards at the bar area discolored.	
10A Toilet facility not maintained and provided with toilet paper, waste receptacle and self-closing door.	One toilet facility not maintained and provided with toilet paper, waste receptacle and self-closing door.	Two toilet facilities not maintained and provided with toilet paper, waste receptacle and a self-closing door.	Three toilet facilities not maintained and provided with toilet paper, waste receptacle and a self-closing door.	Four or more toilet facilities not maintained and provided with toilet paper, waste receptacle and a self-closing door.	

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	Violation	Condition I	Condition II	Condition III	Condition IV	Condition V
10B	Plumbing not properly installed or maintained; anti-siphonage or backflow prevention device not provided where required; equipment or floor not properly drained; sewage disposal system in disrepair or not functioning properly.	One backflow prevention device not installed, or equipment or floor not properly drained. Example: refrigerator condensation draining into a bucket.	Two backflow prevention devices not installed, or equipment or floor not properly drained. Example: refrigerator condensation drained into a bucket and air conditioner draining onto sidewalk.	Three backflow prevention devices not installed, or equipment or floor not properly drained. Example: refrigerator condensation draining into bucket, air conditioner draining onto sidewalk and no vacuum breaker provided on the hose connected to faucet.	Four or more backflow prevention devices not installed or equipment or floor not properly drained. Example: refrigerator condensation draining into bucket, two air conditioners draining onto sidewalk and no vacuum breaker provided on the hose connected to faucet or ice machine.	Sewage disposal system in disrepair or not functioning properly, 5A also cited.
10C	Lighting inadequate; permanent lighting not provided in food preparation areas, ware washing areas, and storage rooms.	One instance of inadequate lighting.	Two instances of inadequate lighting.	Three instances of inadequate lighting.	Four or more instances of inadequate lighting.	
10D	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.	One mechanical or natural ventilation system not provided or inadequate. Example: no ventilation provided in bathroom.	Two mechanical or natural ventilation systems not provided or inadequate. Example: no ventilation provided in bathroom and exhaust hood not sufficient to remove excess fumes in kitchen.	Three mechanical or natural ventilation systems not provided or inadequate. Example: no ventilation provided in bathroom, exhaust hood not sufficient to remove excess fumes in kitchen and grease collecting on walls.	Four mechanical or natural ventilation systems not provided or inadequate. Example: no ventilation provided in bathroom, exhaust hood not sufficient to remove excess fumes in kitchen, grease collecting on walls, and smoke from smokehouse drifting into dining area.	
10E	Accurate thermometer not provided in refrigerated or hot holding equipment.	One refrigeration or hot holding unit not provided with accurate thermometer to measure the temperature in the warmest part of the refrigerator or coolest part of the hot storage facility.	Two refrigeration or hot holding units not provided with accurate thermometers to measure the temperature in the warmest part of the refrigerator or coolest part of the hot storage facility.	Three refrigeration or hot holding units not provided with accurate thermometers to measure the temperature in the warmest part of the refrigerator or coolest part of the hot storage facility.	Four refrigeration or hot holdings units not provided with accurate thermometers to measure the temperature in the warmest part of the refrigerator or coolest part of the hot storage facility.	

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FOOD SERVICE ESTABLISHMENT INSPECTION SCORING PARAMETERS – A GUIDE TO CONDITIONS**

	Violation	Condition I	Condition II	Condition III	Condition IV	Condition V
10F	Non-food contact surface improperly constructed. Unacceptable material used. Non-food contact surface or equipment improperly maintained and/or not properly sealed, raised, spaced or movable to allow accessibility for cleaning on all sides, above and underneath the unit.	One non-food contact surface improperly constructed. Unacceptable material used. Non-food contact surface or equipment improperly maintained and/or not properly sealed, raised, spaced or movable to allow accessibility for cleaning on all sides, above and underneath the unit. Example: wall in food preparation area made of material not easily cleaned.	Two non-food contact surfaces improperly constructed. Unacceptable material used. Non-food contact surfaces or equipment improperly maintained and/or not properly sealed, raised, spaced or movable to allow accessibility for cleaning on all sides, above and underneath the unit. 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.	Three non-food contact surfaces improperly constructed. Unacceptable material used. Non-food contact surfaces or equipment improperly maintained and/or not properly sealed, raised, spaced or movable to allow accessibility for cleaning on all sides, above and underneath the unit. 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, dried encrusted grease and old food debris under the walk-in refrigerator which is not properly sealed to the floor.	Four non-food contact surfaces improperly constructed. Unacceptable material used. Non-food contact surfaces or equipment improperly maintained and/or not properly sealed, raised, spaced or movable to allow accessibility for cleaning on all sides, above and underneath the unit. Example: wall in food preparation area made of brick 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 walk-in refrigerator which is not properly sealed to the floor, and a rug in the food storage area.	
10G	Food service operation occurring in room used as living or sleeping quarters.	Food service operation occurring in one room used as living or sleeping quarters.	Food service operation occurring in two rooms used as living or sleeping quarters.	Food service operation occurring in three rooms used as living or sleeping quarters.	Food service operation occurring in four or more rooms used as living or sleeping quarters.	
10H	Proper sanitization not provided for utensil ware washing operation.	Manual ware washing inadequate in that one immersion basket not provided or of incorrect size.	Manual ware washing inadequate in that one immersion basket not provided or of incorrect size and manual ware washing procedure incorrect.	Manual ware washing inadequate in that one immersion basket not provided or of incorrect size, manual ware washing procedure incorrect and sanitizing test kit or thermometer not provided.	Minimum final rinse temperature of 170°F not maintained or mechanical dishwasher is not operated as per manufacturer's specifications (time or temperature or chemical concentration).	

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Violation	Condition I	Condition II	Condition III	Condition IV	Condition V
10I	Single service item reused, improperly stored, dispensed; not used when required. Example: drinking straws not protected from contamination.	Single service item reused, improperly stored, dispensed or not used when required. Example: drinking straws not properly dispensed and paper plates not protected from contamination.	Single service item reused, improperly stored, dispensed, not used when required. Example: drinking straws not properly dispensed, paper plates not protected from contamination and forks not protected from contamination.	Single service item reused, improperly stored, dispensed, not used when required. Example: drinking straws not properly dispensed, paper plates not protected from contamination, forks not protected from contamination and plastic forks reused.	
10J	“Wash hands” sign not posted at hand wash facility.				
99B	General other.				

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Health

**BUREAU OF FOOD SAFETY
AND COMMUNITY SANITATION**

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