



Date: November 3, 2023

NOTICE OF IMMEDIATE FOOD SERVICE PERMIT SUSPENSION

Notice is hereby given that the food service permit for **Teriyaki Grill & Pho LE** (Permittee) permit #003734 is immediately suspended for violating the Food Service and Sanitation Act. The Permittee is operating in a manner that presents a substantial danger of illness, serious physical harm or death to consumers who patronize the food service establishment.

In accordance with section 80-904.30(A), the food establishment permit is immediately suspended, and all food operations shall **immediately cease**.

The Permittee has removed the "Unsatisfactory" emblem placed by the Department for operating the food establishment in a manner not in compliance with permit requirements and repeat violations. 8-407.11(D) Removal, defacing, or obstruction of an emblem by any *PERSON* other than the *REGULATORY AUTHORITY* shall result in immediate PERMIT suspension or revocation.

The authority for this permit suspension is derived from the Food Service and Sanitation Act, NMSA 1978, Section 25-1-9, which states as follows:

The agency may suspend a permit immediately without prior notice to the holder of the permit if it determines, after inspection, that conditions within a food service establishment present a substantial danger of illness, serious physical harm or death to consumers who might patronize the food service establishment. A suspension action taken under this section is effective when communicated to the food service establishment operator or any employee or agent of the operator who is in charge of the premises involved. If there is no designated employee or agent in charge of the premises, communication to any employee physically present on the premises is sufficient communication to make the suspension effective.

The Permittee may request an appeal hearing by submitting a hearing request within 10 calendar days of the issuance of this Notice as specified in paragraphs 35 and 36 of Subsection B of 7.6.2.8 NMAC to:

Hearing Clerk
Office of Public Facilitation
New Mexico Environment Department
P.O. Box 5469
Santa Fe, New Mexico 87502
Madai.corral@env.nm.gov

If the establishment continues to engage in food service operations after this Notice is served, the New Mexico Environment Department (NMED) may seek relief in district court to enjoin the operation of the establishment. In addition to granting injunctive relief, the district court may impose a civil penalty not exceeding five hundred dollars (\$500) on any person who violates any

provision of the Food Service Sanitation Act. Each and every violation of the provisions of that act shall constitute a separate offense. NMSA 1978, Section 25-1-12, Enforcement.

Upon curing the violation, the Permittee may request that NMED reinstate their food service permit by submitting a written request for re-inspection to:

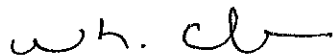
Marci Nevarez
Food Program Manager
New Mexico Environment Department
Marci.nevarez@env.nm.gov

After receiving a written request stating that the conditions cited in the summary suspension order no longer exist, NMED shall conduct a reinspection within 2 business days, which means 2 days during which the NMED offices are open to the public.

The NMED is authorized and has the duty to execute any provisions of the Food Service Sanitation Act delegated to it under the Act or by the Environmental Improvement Board. The NMED is specifically directed to administer and enforce the provisions of regulations adopted under it.

Pursuant to the NMED Delegation Order dated March 24, 2023, the Cabinet Secretary has delegated the authority to issue the Notice of Enforcement Action to the Bureau Chief.

If you have any questions related to this Notice, please contact William Chavez, Environmental Health Bureau Chief, at 505-850-2344 or william.chavez@env.nm.gov.



NOV 3, 2023

Bureau Chief
Environmental Health Bureau
New Mexico Environment Department

Date

Please note that your facility will appear on the Department's Enforcement Watch as a result of this Enforcement Action(see: <https://www.env.nm.gov/enforcement-watch/>). Further, the Department will Issue a press release to local media highlighting your facility as appearing on this webpage. Your facility will remain on the Enforcement Watch website as an active matter until this matter is fully resolved, including the payment of the assessed civil penalty.