

BEFORE THE ARKANSAS STATE BOARD OF HEALTH

ARKANSAS DEPARTMENT OF HEALTH

PETITIONER

VS.

MEXICO CHIQUITO, INC.

RESPONDENT

FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER

FINDINGS OF FACT

After a hearing conducted October 16, 2003 before a subcommittee of the Board of Health ("Board"), the Board finds the following:

1. Respondent owns and/or operates the Mexico Chiquito restaurant located at 2703 Lakewood Village Dr., North Little Rock, Arkansas.
2. Respondent is a licensed food service establishment and is required to comply with Subchapter 2, Chapter 57 of Title 20 of the Arkansas Code and the Rules and Regulations Pertaining to Food Service Establishments ("Rules").
3. The testimony and photographs demonstrated that the Respondent stored food directly on the floor of a refrigeration unit.
4. The testimony and photographs demonstrated that the Respondent did not maintain the proper temperature in its refrigeration units.
5. The testimony and photographs demonstrated that the Respondent did not maintain proper internal temperatures for potentially hazardous foods. Burritos and Enchiladas were observed at 53° Fahrenheit.
6. The testimony and photographs demonstrated that the Respondent did not install thermometers in its refrigeration units.
7. The testimony and photographs demonstrated that the Respondent did not properly store

wiping cloths.

8. The testimony and photographs demonstrated that the Respondent did not provide a suitable hand drying device or paper towels at its hand washing sink.
9. The testimony and photographs demonstrated that the Respondent did not take effective measures to minimize the presence of insects in the kitchen area.
10. The testimony and photographs demonstrated that the Respondent did not maintain proper ventilation over the cooking area. The ventilation equipment over the cooking area was inoperative.

CONCLUSIONS OF LAW

1. Respondent violated § 2-301 of the Rules by storing food directly on the floor of a refrigeration unit. The rules require that containers of food be stored a minimum of six inches above the floor of the refrigeration unit.
2. The testimony and photographs demonstrated that the Respondent violated § 2-302 of the Rules by not maintaining the proper temperature in its refrigeration units. The rules mandate a temperature at or below 45° Fahrenheit. Temperatures were observed at 50° Fahrenheit.
3. The testimony and photographs demonstrated that the Respondent violated § 2-302 of the Rules by not maintaining proper internal temperatures for potentially hazardous foods. The rules mandate internal temperatures at or below 45° Fahrenheit.
4. The testimony and photographs demonstrated that the Respondent violated § 2-302 of the Rules by not installing thermometers in its refrigeration units.
5. The testimony and photographs demonstrated that the Respondent violated § 5-102 of the Rules by not properly storing wiping cloths. The Rules mandate that cloths and sponges be stored in a sanitizing solution between uses.

6. The testimony and photographs demonstrated that the Respondent violated § 6-503 of the Rules by not providing a suitable hand drying device or paper towels at its hand washing sink.

7. The testimony and photographs demonstrated that the Respondent violated § 6-701 by not taking effective measures to minimize the presence of insects in the kitchen area.

8. The testimony and photographs demonstrated that the Respondent violated § 7-501 of the Rules by not maintaining proper ventilation over the cooking area. The ventilation equipment over the cooking area was inoperative.

ORDER

The Administrative Penalty is issued under the authority vested in the State Board of Health by Ark. Code Ann. § 20-7-101.

1. A penalty of five thousand dollars (\$5,000.00) has been calculated for Respondent to pay to the Arkansas Department of Health based on its violations of the Rules.

2. In addition to the monetary fine, the Board orders that all faulty refrigeration equipment be replaced within fourteen (14) days of this Order. The facility must close if the faulty equipment is not replaced within the fourteen (14) days. It could reopen after the Department of Health conducts an inspection to ensure that all faulty equipment has been replaced and Respondent is in complete compliance with all applicable rules of the Board.

IT IS SO ORDERED this 23rd day of October, 2003.



Jane Sneed, M.D.
President, State Board of Health