



Michael R. Pence
Governor

Jerome M. Adams, MD, MPH
State Health Commissioner

CERTIFIED MAIL
#7002 2410 0000 1701 6630

October 23, 2014

H. J. Kim, Sr. Vice President
Sushi Avenue, Inc.
895 Blue Gentian Road, Suite 6
Eagan, MN 55121

RE: Variance Request # 722014

Order to Approve a Variance

You are hereby notified that based on the recommendation of the Indiana State Department of Health (ISDH), Food Protection Program, and as authorized by Indiana Code (IC) 16-19-3-4.3 and IC 16-42-5-5.2, the State Health Commissioner hereby orders that a variance be approved to H. J. Kim, Sr. Vice President, Sushi Avenue, Inc.

On May 20, 2014, this office received a request for Sushi Avenue, Inc. to vary section 187 of 410 IAC 7-24, "Retail Food Establishment Sanitation Requirements," relating to the production of sushi rice as a non-potentially hazardous food (non-TCS: non-Time/Temperature Controlled for Safety Food) from a potentially hazardous food (TCS: Time/Temperature Controlled for Safety Food) by a process of acidification.

This **VARIANCE APPROVAL** is based on the following criteria:

- The following locations:
 - Fresh Thyme, 8750 US Hwy 31, Indianapolis, Indiana;
 - Fresh Thyme, 220 S. Creasy Lane, Lafayette, Indiana; and
 - Fresh Thyme, 4320 Coldwater Road, Fort Wayne, Indiana.
- Cooked white, brown, and multi-grain sushi rice shall be prepared according to the process described for each in the material accompanying the variance application, including a resulting pH of 4.2 or less as a critical control point (CCP).

- All sushi rice preparation employees must be trained on the SSOP's, pH verification procedures, and the sushi rice HACCP plan as stated in the materials submitted on May 20, 2014 and the subsequent materials received in the ISDH office on 10/1/2014.
- ISDH shall be notified of any substantive changes in the product manufacturing process that may affect the HACCP plan criteria.
- The controls for meeting the conditions of this approval shall be assessed by ISDH and/or the affected local health department periodically. In addition, ISDH and/or the affected local health department may collect independent samples, analyzed for pH based on the submitted recipe and/or procedure.
- The facility person-in-charge shall allow random surveillance sampling by the regulatory authority of the sushi rice for testing at any time to verify that the HACCP plan is being followed.
- A copy of this approval letter and the HACCP plan must be kept onsite in the above named preparation establishments at all times and readily available for review by local or state health department personnel.
- A Certified Food Handler shall be provided at all times during sushi preparation for this location to properly oversee all food safety requirements; and
- This variance does not extend to locations not listed above. There shall be no other food establishments in Indiana conducting this process by this company unless explicitly approved by the Indiana State Department of Health. The establishment must request and receive approval from the ISDH Food Protection Program least thirty (30) days prior to adding new Indiana locations to this variance.
- Sushi Avenue, Inc. shall comply in all aspects of the 410 IAC 7-24, as determined by the ISDH and/or local health department, except as stated above. Any change to the management or structure of the operation could invalidate this variance Order
- This variance Order is limited to Sushi Avenue, Inc. and the current scope of the existing operations as indicated in submitted materials. This variance Order is not transferable to a new owner.
- This variance Order is limited to being in compliance with all other applicable state and local regulations.
- Any provisions not adhered to may result in the revocation of this order.
- Some of the submitted materials may be considered confidential or proprietary for Sushi Avenue, Inc. It is a condition of this approval that Sushi Avenue, Inc. agrees to allow copying and transmittal of submitted HACCP materials to Indiana food regulatory authorities for regulatory purposes only. No other copying or transmittal of materials is allowed without consent of Sushi Avenue, Inc.

If you wish to request an administrative review or stay of effectiveness of this decision pursuant to Ind. Code §40-21.5-3-7(a), you must petition for such review in writing. The petition must state facts demonstrating that:

- a. you are a person to whom the decision is specifically directed;
- b. you are aggrieved or adversely affected by the decision; or,
- c. you are entitled to review under any law.

Your request for review or stay of effectiveness must be filed in writing and addressed to:

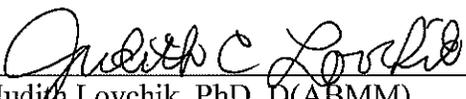
**Indiana State Department of Health
Attn: Court Administrator
Office of Legal Affairs
2 North Meridian Street, Section 3H
Indianapolis, Indiana 46204**

on or before November 12, 2014. If no request for review or stay of effectiveness is filed by November 12, 2014, this decision shall become final.

DATED AT INDIANAPOLIS, INDIANA THIS 23rd DAY OF OCTOBER 2014.

PURSUANT TO IC 16-19-3-4.3 AND IC 16-42-5-5.2, I HEREBY APPROVE A VARIANCE OF FOOD PROTECTION RULES AS STATED ABOVE.

JEROME M. ADAMS, MD, MPH
STATE HEALTH COMMISSIONER

By: 
Judith Lovchik, PhD, D(ABMM)
Assistant Commissioner
Public Health Protection and Laboratory Services Commission

cc: ISDH Executive Board
ISDH Food Protection Staff
ISDH Office of Legal Affairs
Allen County Health Department
Marion County Health Department
Tippecanoe County Health Department