



Michael R. Pence
Governor

Jerome M. Adams, MD, MPH
State Health Commissioner

CERTIFIED MAIL #7009-2820-0003-8637-9721

May 4, 2016

Michael Smith, Quality Manager
F'Real Foods, LLC
6121 Hollis St. Suite 500
Emeryville, CA 94608

RE: Variance Request # 942016

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 Michael Smith, Quality Manager representing F'Real Foods, LLC.

On March 9, 2016, this office received a request from you representing F'Real Foods, LLC to vary section 296 of 410 IAC 7-24, "Retail Food Establishment Sanitation Requirements," relating to the cleaning frequency of certain equipment.

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

- Some of the submitted materials may be considered confidential and/or proprietary for F'Real Foods, LLC. It is a condition of this approval that F'Real Foods, LLC agrees to allow copying and transmittal of submitted materials to Indiana food regulatory authorities for regulatory purposes.
- The equipment cleaning system for the Model FRLB4 shake blending machine has been designed to be cleaned/ sanitized on a 24 hour interval, as described in the attached literature, instead of the 4 hour interval stated in the Retail Food Establishment rule, section 296.
- The scope of this variance covers all Indiana locations where the Model FRLB4 Shake blending machine currently appears and will appear in the future, so long as the design and function of the unit remains the same as specified in the attached document.
- If future evidence indicates the designed system is no longer safe, or is otherwise deemed to be a hazard to public health, this approval Order may be revoked.
- This variance is limited to the current owner, or a designee of the owner, and to the current scope of the existing operations. This variance Order is not transferable to a new owner.



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- This variance Order is limited to being in compliance with all other applicable state and local regulations.
- Failure to comply with any of the above criteria could result in the revocation of the variance approval Order.
- The Indiana State Department of Health Food Protection Program shall be notified in writing of any changes in the equipment or in the cleaning process that may affect the conditions and criteria in this variance.

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 June 4, 2016. If no request for review or stay of effectiveness is filed by June 4, 2016, this decision shall become final.

DATED AT INDIANAPOLIS, INDIANA THIS 4th DAY OF MAY, 2016.

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
All Local Health Departments and Other IN Food Regulatory Authorities