



Michael R. Pence
Governor

William C. VanNess II, MD
State Health Commissioner

CERTIFIED MAIL

November 27, 2013

Tlang T. Mawii-Myint, President
Nikko Enterprise Corporation
13168 Sandoval Street
Santa Fe Springs, CA 90670

RE: Variance Request # 622013

Order to Approve a Variance

You are hereby notified that based on the recommendation of the Indiana State Department of Health (Department), 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 Tlang T. Mawii-Myint, President, Nikko Enterprise Corporation.

On September 16, 2013, this office received a request for Nikko Enterprise Corporation 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:

13145 Levinson Lane, Noblesville, Indiana, and
1392 S. Rangeline Road, Carmel, Indiana.

- Cooked sushi rice shall be prepared according to the process described in the material accompanying the variance application, including a resulting pH of 4.2 or less as a critical control point (CCP).
- All employees must be trained on the sanitation standard operating procedures (SSOP), pH verification procedures, the sushi rice hazard analysis critical control point (HACCP) plan as stated in the "HACCP Food Safety Guidelines Manual," dated January 2012.



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To promote and provide
essential public health services.

- A pH log shall be maintained to verify compliance with the pH requirements of the HACCP plan;
- The Department shall be notified of any substantive changes in the product manufacturing process that may affect the accuracy of challenge studies or HACCP plan criteria;
- The controls for meeting the conditions of this approval shall be assessed by the Department and/or the affected local health department periodically. In addition, the Department and/or the affected local health department may collect independent samples, analyzed for pH based on the submitted recipe;
- 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 properly followed;
- A copy of this approval letter and the HACCP plan must be kept onsite in the establishment at all times and readily available for review by local or state health department personnel;
- A Certified Food Handler is 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 Department. The establishment must request and receive approval from the Department's Food Protection Program at least thirty (30) days prior to adding new Indiana locations to this variance.
- Nikko Enterprise Corporation shall comply in all aspects of the 410 IAC 7-24, as determined by the Department 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 Nikko Enterprise Corporation, or company designee, and the current scope of the existing operations. 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.

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:

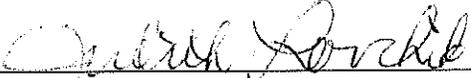
- a. you are a person to whom the decision is specifically directed;
- b. you are aggrieved or adversely affected by the decision; or,
- c. you are entitled to review under any law.

Your request for review or stay of effectiveness must be filed in writing with the State Health Commissioner, 2 North Meridian Street, Indianapolis, Indiana 46204, on or before December 9, 2013. If no request for review or stay of effectiveness is filed by December 18, 2013, this decision shall become final. ⁹ AC 6

DATED AT INDIANAPOLIS, INDIANA THIS 21ST DAY OF NOVEMBER 2013.

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.

WILLIAM C. VAN NESS II, M.D.
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
Hamilton County Health Department