



Mitchell E. Daniels, Jr.
Governor

Gregory N. Larkin, M.D., F.A.A.F.P.
State Health Commissioner

CERTIFIED MAIL

May 1, 2012

Mr. Edison Zheng
Imperial Star, Inc. DBA
Kaizen Hibachi Grill, Sushi and Bar
1210 Westwood Drive
Goshen, IN 46526

Dear Mr. Zheng,

The variance application received on January 12, 2012 has been reviewed, evaluated and a "request for more information letter" was sent to you on February 27, 2012 with a response time of 30 days. As of today we have received no further information from you and therefore the variance request is hereby **denied** because it violates Indiana Code 16-19-3-4.3 by not establishing a good cause. Indiana State Department of Health (ISDH) Rule, 410 IAC 7-24, Retail Food Establishment Sanitation Requirements, Section 187, requires potentially hazardous foods to be maintained at proper temperatures to prevent the outgrowth of potential pathogens. The sushi rice must be maintained at 41 degrees Fahrenheit or below or 135 degrees Fahrenheit or above. Your plans did not include satisfactory standard operating procedures (SOP) and a hazard analysis of critical control point (HACCP) plan that were suitable and therefore, the variance review committee has decided it lacked sufficient safety factors to recommend approval. Please refer to the attached letter previously sent detailing the information that was requested.

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,

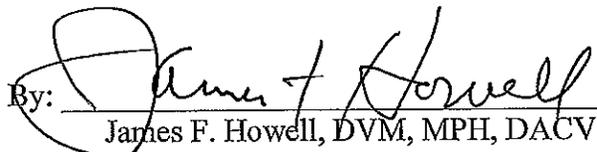
c. you are entitled to review under any law.

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 May 18, 2012. If no request for review or stay of effectiveness is filed by May 18, 2012, this decision shall become final.

DATED AT INDIANAPOLIS, INDIANA THIS 1st DAY OF MAY 2012.

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

GREGORY N. LARKIN, M.D.
STATE HEALTH COMMISSIONER

By: 
James F. Howell, DVM, MPH, DACVMP
Assistant Commissioner
Public Health and Preparedness Commission

cc: ISDH Executive Board
ISDH Food Protection Staff
ISDH Office of Legal Affairs
Local Health Departments in Indiana



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Gregory N. Larkin, M.D., F.A.A.F.P.
State Health Commissioner

February 27, 2012

Mr. Edison Zheng
1213 Westwood Drive
Goshen, IN 46526

RE: Imperial Star Variance Application #392012

Mr. Zheng,

Your request for variance has been reviewed by the Variance Review Committee. At this time it cannot be approved until additional information is provided. Please find, enclosed, a second page detailing several questions that must be satisfactorily answered before this application can move forward.

Please feel free to contact me if you have further questions. This information must be submitted within 30 days from the date of this letter or the recommendation for this request will be to deny approval of the variance.

Sincerely,

A. Scott Gilliam, MBA, CP-FS, Director
Food Protection Program
AC 317.233.7360
FAX 317.233.7334

CC: Mike Hoover, Elkhart County Health Department
Dan Miller, Food Protection Program

Comments of variance application #392012

- The recipe does not seem to be fully standardized, since the recipe does not describe the exact percentages and what type of actual measuring device(s) will be used when portioning out ingredients.
- Describe location where the rice is made
- Since the sink where the rice is drained has no drain boards what is the SOP for cleaning and sanitization of the sink prior to use?
- How is the time for the soaking of the uncooked rice monitored?
- Please provide specifications of the rice cooker with the automated step for maintaining temperature of the cooked rice.
- Please provide specifications on the type of food thermometer that will be used.
- Where is the HACCP plan mentioned in question #5 of the variance application?
- The procedure provided does not specify what happens to the sushi rice after assembly. Is the rice used to make other products? Displayed under refrigeration? Immediately served? Delivered off-site? Wholesale customers? Please explain.
- Question #5 of the variance application states, "Chef will keep hourly log of the pH level of the rice daily to verify compliance with the pH requirements of the HACCP Plans." Why is it necessary to check each batch for pH every hour? Where is the log form which will be used for this? How long will pH records be retained?
- Please provide specifications of the pH meter.
- Where are general SOPs covering :

Ill food employees

Bare hand contact with ready-to-eat food

Date marking policy for the assembled ready-to-eat sushi product

- Page 3, first paragraph states, "When the rice is stored in the hot holding rice pot..." Why will acidified rice be stored in a hot holding pot? The procedure at this point does not agree with the variance application, in that, the application says pH will be taken every hour while the procedure does not say this.
- Page 3, first paragraph, 3rd line says pH strips will be used. The pH should only be measured with a calibrated instrument, not pH strips. Please explain why strips would be used.
- Step # 10 on page 2: There is no corrective action stated for a batch of rice failing to meet the critical limits of pH 3.3 to 4.6. Question 6, under (D), it says: "We will always keep our rice pH level around 4.1 pH at all time." What is the critical limit for this product? Since no HACCP plan was submitted we do not have the details. A pH range of 3.3 to 4.6 is a very large variation for a product that should have a standardized formulation. Please explain.
- Are there any challenge studies to support the request?
- Please provide information as to your history of compliance concerning past food safety inspections by the Elkhart County Health Department.