RECEIVED

REQUEST FOR VARIANCE AUG 01 2013

State Form 51184 (R / 5-13)

Food Protection Program

INDIANA STATE DEPARTMENT OF HEALTH
Telephone: 317/234-8569 FAX: 317/233-9200

FOOD PROTECTION PROGRAM
INDIANA STATE DEPT. OF HEALTH

1. Individual Submitting Request: Date: 07 / 31 / 2013

Name: Charles Good Telephone: (765) 288-7300 Fax: (765) 747-9662

Mailing Address: 6255 W. Kilgore Ave. (Number and Street) Email: lowerys1941@hotmail.com

P.O. Box: Muncie (City) Indiana (State) 47304 (ZIP Code)

2. Person/Organization Seeking Variance:

Name: Lowery's Candies Inc. Email: lowerys1941@hotmail.com

Mailing Address: 6255 W. Kilgore Ave. (Number and Street)

P.O. Box: Muncie (City) Indiana (State) 47304 (ZIP Code)

3. Food Establishment(s) for Which Variance is Sought

Include the following information for each food establishment: *(List here or attach additional pages if necessary.)*

- Physical Location *(if different than mailing address)*:
- Mailing Address: 6255 W. Kilgore Ave. Muncie Indiana 47304 (Number, Street, City, State, and ZIP Code)
- Telephone Number: (765) 288-7300 Fax Number: (765) 747-9662
- Person at each retail food establishment most responsible for supervising: Charles Good & Vicki Good

4. State how the proposal varies from each rule requirement, citing relevant rule sections by number: *(Attach additional pages if necessary.)*

We propose the following variation from rule 410 IAC 7-24-171 section 171b, to allow our chocolate dippers at Lowery's Candies Inc. to prepare non-potentially hazardous chocolate and candies with bare hands washed with Dawn Ultra Antibacterial and other Dawn soaps. Hand washing is defined as the following: washing hands with soap for 20 seconds in at least 100 degree water, vigorously scrubbing hands and arms for 10-15 seconds, cleaning between finger, under fingernails that are no longer than 1/4 inch, rinse thoroughly under running water, dry hands with single use paper towel and then using a clean dry paper towel to turn off the faucet. Chocolate and candy do not meet the definition of potentially hazardous food as per the definition in 410 IAC 7-24-66 hence could be classified as a Non-potentially hazardous food.

5. Explain how the potential public health hazards and/or nuisances will be alternatively addressed by the proposal. Include supporting studies, Hazard Analysis Critical Control Point (HACCP) Plan(s), standard sanitation operating procedures, and/or any other evidence: *(Attach additional pages, if necessary.)*

We Are eliminating potential contamination hazards by limiting preparation personnel to qualified employees. In our facility qualified employees are defined as those trained in the Food Handler course Serve Safe and comply with the hand washing rule 410 IAC 7-24-128 when washing their hands immediately before preparing chocolates and candies. When complying with the rule 410 IAC 7-24-128 the following procedure is followed: washing hands with hand sanitizing soap for 20 seconds in at least 100 degree water, vigorously scrubbing hands and arms for 10-15 seconds, cleaning between fingers, under fingernails that are no longer than 1/4 inch, rinse thoroughly under running water, dry hands with single use paper towel and then using a dry pater towel to turn off the faucet. We take this procedure a step further by requiring ALL employees to wash hands for 30 seconds in 100 degree water, vigorously scrubbing hands and arms for 15 seconds, cleaning between fingers and under nails that are trimmed as short as the employee can stand. The faucet is then turned off with a clean paper towel. (See page 3)

6. List how the proposal demonstrates the following *(if applicable to the request)*:

A) How the proposal differs from what is common and usual in similar industry situations:
See page 3

B) How the proposal is unique and not addressed in existing rules or law:
See page 3

C) How the proposal does not diminish the protection of public health:
See page 3

D) How the proposal is based on new scientific or technological principle(s):
See page 4

E) How the implementation of the variance would be practical:
See page 4

7. Explain how the person/organization seeking the variance will assure that all provisions of a granted variance will be enacted at each food establishment for which a variance has been granted:

In this organization the provisions of this granted variance will be enacted by ensuring only chocolatier's trained by Serve Safe Certified holders will be involved in the preparation of the confections. By teaching our chocolatier's the rules and regulations of washing/sanitizing we will ensure that the hand washing process is consistent and correctly performed each time. Each employee will be required to read and sign a form that states they have read and understand the Health standards and sanitizing standards that are required to work with and around food.

8. List all affected parties known by the person/organization seeking a variance, including all affected regulatory authorities: *(Attach additional pages if necessary.)*

Delaware County Department Of Health

9. Attach copies of any related variances, waivers or opinions issued by other governmental agencies.

10. Signature of Individual Making Request:_____

Printed Name, Title: Charles Joseph Good President

For Office Use Only

5. Continued
A single use glove meeting all FDA standards is placed on their left hand. The chocolatier then goes directly to their station where all work is done. All dippable items are then brought to them at their station by a fully gloved employee. The chocolatier does not touch anything but the candies to be dipped with their gloved hand. If the chocolatier gets up, touches anything but the dippable items they are required to re-wash hands as stated above and re-glove with a new single use glove. In addition all equipment used in the confectionery process are washed in sink one in a detergent solution at least 110 degree water, rinsed in sink two, immersed in a quaternary ammonium compounds sanitizing solution for at least 30 seconds in sink three, and then air dried in a drying rack. This plan of hand and equipment sanitation is monitored daily by management.

6A.
En-robing machines comely used by many large confectionery companies require large amounts of oils and additives in their chocolates and candies. Our chocolates and candies contain only the oils that are naturally found in the chocolate and we put no other additives in our candy. A bare right hand is required to feel the texture and temperature of the chocolate. A glove on the right hand would make it impossible for the trained chocolatier to tell if the chocolate is ready to apply to dippable items.

6B.
Currently the health code does not specifically address Chocolatier's or Confectioners as a separate professional business. This is a unique and treasured industry. In hand dipping chocolates it is necessary to feel the texture and temperature of the chocolate to maintain the integrity of the final product. Also candy and confection do not naturally carry biologically potential contaminate organisms, thus washing hands according to rule 410 IAC 7-24-128 with sanitizing soap these organisms are prevented from being introduced into the final confectionery product.

6C.
This proposal does not diminish the protection of public health because the choclatier's hands are washed using Dawn Ultra Antibacterial and other Dawn soaps before being placed in the chocolate and this first coating of chocolate creates a glove like effect on the chocolatier's hand. This "Glove of Chocolate" protects the final consumable product from being directly touched by the chocolatier's hand. The Glove of Chocolate is NOT scraped back into the remaining chocolate but removed in tact and immediately washed and using the procedure found in rule 410 IAC 7-24-128. In addition the chocolatier's is not aloud to work when symptoms like vomiting, fever or diarrhea are present. The chocolatier's are not aloud to make any products if hands are bruised, have any sort of cut or abrasion, or fingernails are not cut back as far as they can stand. The chocolate preparation area has no exposure to food products that could contribute to the contamination of any part of the chocolate production process.

07/31/2013 02:25 FAX 1 765 747 9662 LOWERYS CANDIES 003

6D.
The "Glove of Chocolate" has proven that once the hand is completely emersed in chocolate it forms a seal. This Glove of Chocolate then remains on the hand until the chocolatier has to get up from their station. Where it is removed over a sink. IT IS NOT SCRAPPED BACK IN TO THE CHOCOLATE.

6E.
Lowery's Candies Inc. is based on the preservation of the unique methods of hand dipping used by our predecessors in the confectionery industry. (Hand dipping now dates back nearly 90 plus years) It also aids in keeping the process cost effective for the producer and consumer since Lowery's Candies Inc. is a small business.

07/31/2013 02:25 FAX 1 765 747 9662 LOWERYS CANDIES 004