



**Request For Variance**

State Form 51184 (12/02)  
Food Protection Program

**RECEIVED**

**MAY 23 2013**

**INDIANA STATE DEPARTMENT OF HEALTH**  
Telephone: 317/233-7360 FAX: 317/233-7334

**FOOD PROTECTION PROGRAM  
INDIANA STATE DEPT. OF HEALTH**

**1. Individual Submitting Request:** Date: 05 / 20 / 2013

Name: Tad N. Gongwer Telephone: ( 574 ) 862-2184 Fax: ( 574 ) 862-2434

Mailing Address: 607 Nelson's Parkway Email: tad@nelsonsbbq.com  
Number & Street

Wakarusa IN 46573  
City State Zip Code

P.O. Box \_\_\_\_\_

**2. Person/Organization Seeking Variance:**

Name: Nelson's Catering & Fundraising Email: tad@nelsonsbbq.com

Mailing Address: 607 Nelson's Parkway  
Number & Street

Wakarusa IN 46573  
City State Zip Code

P.O. Box \_\_\_\_\_

**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): Various Mobile Food Sites throughout Indiana
- Mailing Address: 607 Nelson's Parkway Wakarusa, IN 46573  
(Number, Street, City, State, & Zip Code)
- Telephone Number: (574) 862-2184 Fax Number: (574) 862-2434
- Person at each retail food establishment most responsible for supervising: Tad N. Gongwer

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

**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.)  
 See Attached

**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:  
 Other mobile vendors use multiple utensils and equipment that require on site manual warewashing. Nelson's does not have any equipment or utensils that need to be cleaned at the cooking location site. Many other vendors utilize spoons, tongs, pans, etc. that are used repetatively while on location, but Nelson's only uses food grade, heat resistant gloves. These gloves will be exchanged with a clean and sanitized pair of heat resistant gloves every four hours or upon contamination, whichever occurs first, following proper handwashing procedures. All remaining equipment is too large to be properly cleaned and sanitized in the size of a three compartment sink normally found on a mobile unit. The insulated cooler containers for storing the cooked chicken are used with disposable liners until the last batch and then they are used only once before being transported back to the commissary daily for proper cleaning and sanitizing. The cooking baskets are required to be cleaned once every 24 hours and are also taken back to the commissary daily for proper cleaning.

B) How the proposal is unique and not addressed in existing rules or law:  
 This proposal is unique in the manner that there are not numerous utensils used in the cooking process and the concern for the need to use properly cleaned and sanitized heat resistance gloves can be accomplished by an exchange of fresh cleaned and sanitized gloves every 4 hours or upon contamination, therefore eliminating the need for the three bay sink.

**QUESTION #4:** *The proposal varies from the following code requirement:*

**410 IAC 7-24-270**

**Manual ware washing; sink compartment requirements**

**Sec. 270 (a)** Except as specified in subsection (c), a sink with at least three (3) compartments shall be provided for manually washing, rinsing, and sanitizing equipment and utensils.

*Our on-site cooking process does not, and never has, used any spoons, tongs, forks or any serving utensils of any kind. The only utensils used are heat resistant gloves which are used throughout the cooking process, therefore, there is no need for an on-site three compartment sink. The remaining equipment consists of large coolers to hold the cooked chicken until sold by the retail organization (typically a not-for profit), cooking equipment and large buckets for the transport and storage of the cooking sauce. Nelson's cleans and sanitizes all machinery and limited cooking equipment back at the commissary after the conclusion of each event as it is not practical to have a three compartment sink large enough to accomplish this on site. The organization that is selling the cooked product utilizes disposable gloves to dispense the product to their customers.*

**QUESTION #5:** *The potential health hazards regarding the variance from providing an on-site three compartment sink for the mobile units for the remaining equipment are accounted for and addressed in alternative sections of the code, with those sections being:*

**410 IAC 7-24-296**

**Equipment food-contact surfaces and utensils, cleaning frequency**

**Sec. 296 (c)** Except as specified in subsection (d), if used with potentially hazardous food; equipment food-contact surfaces and utensils shall be cleaned throughout the day at least every four (4) hours.

*Both sets of heat resistant gloves (one set for raw product and one set for cooked product-designated by color) used in handling and preparing the product will be exchanged every four (4) hours or upon contamination, whichever occurs first, with a cleaned and sanitized pair from a clean and sanitized, labeled and covered container holding numerous pairs of extra gloves. This is the most effective and proficient way of addressing the need for clean gloves when there is only one staff person at the cook site*

*and very little time to perform ware washing duties. Soiled gloves will be placed in a separate covered and labeled container and returned to the commissary for proper cleaning and sanitizing at the end of the cooking period. The time when the gloves need to be changed will be tracked on a log sheet to indicate when the next set of gloves needs to be put into use.*

*The insulated cooler containers used for the storage and service of the cooked product are lined with a food grade plastic liner and then filled with product. When the container is empty the liner is removed and thrown away and a new liner is placed into the container for the next batch of chicken. The last batch of chicken going into the container does not require a liner. The retail organization sells the product from these containers, emptying one container at a time, until the product is gone. The coolers are then returned to Nelson's commissary for proper cleaning and sanitizing.*

*The cooking sauce containers are emptied into the cooking unit upon arrival to the cook site and stacked for return to the commissary for proper cleaning and sanitizing. The sauce is later removed from the cooker and placed into different clean and sanitized containers brought to the site for such use.*

#### **410 IAC 7-24-298**

##### **Cooking and baking equipment**

**(a) The food-contact surfaces of cooking and baking equipment shall be cleaned at least every twenty-four (24) hours.**

*The "baskets", or containers our product is cooked in, will be transported back to and cleaned and sanitized at the Nelson's commissary every day. This equipment is in use continuously throughout the cooking period and is in constant contact with temperatures well exceeding 500 degrees Fahrenheit. At the conclusion of the cooking period, the baskets are returned to the main facility for proper cleaning and sanitizing.*

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

There are minimal potential health hazards due to the replacing of gloves every 4 hours or upon contamination and eliminating the three compartment sink. If anything it improves the protection of public health by providing a quicker and easier way for staff to address the potential contamination of this equipment by replacing it with already cleaned and sanitized equipment rather than having to have the employees go through the whole wash, rinse and sanitize process, which they may be tempted to circumvent if they are very busy.

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

The proposal is not based on new scientific or technological principles but rather is based on practical and proven practices already provided for in the current rule when dealing with regular food service establishments in the use of alternative methods.

E) How the implementation of the variance would be practical:

The implementation will be practical in the fact that numerous pairs of cleaned and sanitized gloves will be stored in a clean and sanitized, labeled, covered container where they will be readily available for use in the event that the pair in use becomes contaminated or the 4 hour time frame has been exhausted. It will also be a practical solution to the issue of space and plumbing limitations that are of a concern to many local health departments. Since this is a process we have used for many years and we have never used any three compartment sinks at the cook site, it will only be a matter of formalizing our operating procedure in writing and to be placed in each unit during hours of operation.

**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:**

The procedures will be posted in each unit. All staff will be properly trained on the procedures upon hire. Nelson's sends regular weekly staff memos to the barbecue chefs to discuss directions and other such items as well as changes. The procedures will be reviewed along with the health department codes at least quarterly. Our management staff will continue to work alongside our local county health inspectors to assure we meet all requirements as stated. Nelson's managers will be performing periodic, unannounced self-inspections on the various cook sites through out the season to ensure compliance. Any employee that does not follow the proper procedures during an inspection performed either by Nelsons or a local health department will be subject to disciplinary action.

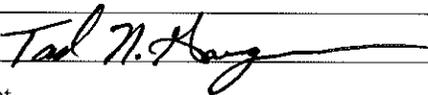
**8. List all affected parties known by the person/organization seeking a variance, including all affected regulatory authorities: (Attach additional pages if necessary)**

All counties within the state of Indiana.

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

For Office Use Only

10. Signature of Individual Making Request:



Printed Name, Title: Tad N. Gongwer, President