



Mitchell E. Daniels, Jr.
Governor

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

CERTIFIED MAIL

December 5, 2012

Ms. Susan Dong
Mr. Hibachi
4402 E. 3rd Street
Bloomington, IN 47401

Dear Ms. Dong,

The variance application received on September 24, 2012 has been reviewed, evaluated and a "request for more information letter" was sent to you on October 16, 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 December 23, 2012. If no request for review or stay of effectiveness is filed by December 23, 2012, this decision shall become final.

DATED AT INDIANAPOLIS, INDIANA THIS 5TH DAY OF DECEMBER 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