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UNITED STATES DEPARTMENT OF AGRICULTURE

BEFORE THE SECRETARY OF AGRICULTURE

In re:	)	
	)	PPIA Docket No. 18- 0058
Summit Poultry, Inc.	)	
	)	
	)	
	)	
Respondent	)	Consent Decision and Order

This proceeding was instituted under the Poultry Products Inspection Act, as amended (21 U.S.C. § 451 et seq.) (PPIA) and the applicable rules of practice (7 C.F.R. § 1.130 et seq., 9 C.F.R. § 500.1 et seq.) to refuse and withdraw Federal inspection services from Summit Poultry, Inc., hereinafter referred to as Respondent, for its poultry products produced under its Hazard Analysis and Critical Control Point (HACCP) system for poultry slaughter. This proceeding was commenced by a Complaint filed by the Administrator of the Food Safety and Inspection Service (FSIS), United States Department of Agriculture (USDA), which is responsible for the administration of Federal inspection services for poultry. The parties have agreed that this proceeding should be terminated by entry of the Consent Decision and Order set forth below pursuant to the Consent Decision provisions of the Rules of Practice (7 C.F.R. § 1.138).

Respondent admits the findings of fact, as set forth herein, and specifically admits that the Secretary has jurisdiction in this matter, neither admits nor denies the remaining allegations, waives oral hearing and further procedure, waives all rights to seek judicial review and otherwise challenge or contest the validity of this decision, including waiving challenges to the Administrative Law Judge's authority to enter this Decision and Order under the Administrative Procedure Act and the Constitution of the United States, and waives any action against the

United States Department of Agriculture under the Equal Access to Justice Act of 1980 (5 U.S.C. § 504 et seq.) for fees and other expenses incurred by Respondent in connection with this proceeding or any action against any USDA employee in their individual capacity.

Complainant agrees to the entry of this Consent Decision and Order.

Findings of Fact

1. Summit Poultry, Inc. (Respondent) is a corporation organized and existing under the laws of the State of Arkansas. Its physical and mailing address is 2201 West 2nd Avenue, Pine Bluff, AR 71601.

2. Respondent received a Conditional Grant of Inspection for poultry on March 31, 2017 and was designated as Official Establishment No. P51165. While operating under a Conditional Grant of Inspection, Respondent was required to validate its HACCP plan in accordance with 9 C.F.R. § 417.2 and § 417.4.

3. On multiple dates in 2017 and 2018, and most recently on April 19, 2018, FSIS has taken enforcement action under 9 C.F.R. Part 500 three times at Respondent's facility for statutory and regulatory violations and repeated failures to comply with HACCP and sanitation requirements. In addition, Respondent failed to validate its HACCP plan and thus failed to meet the terms of the Conditional Grant of Inspection.

Conclusion

Respondent having admitted the jurisdictional facts and the parties having agreed to the entry of this consent decision, the consent decision will be entered.

Order

Federal inspection services under the PPIA are refused and withdrawn from Respondent and its owners, officers, directors, partners, successors, affiliates and assigns, directly or through any business or other device beginning on the effective date of this Order. However, the refusal and withdrawal of inspection services shall be held in abeyance, and inspection services shall be provided to Respondent, pursuant to a conditional grant of inspection, for so long as the conditions set forth below, in addition to all other requirements of inspection including 9 C.F.R. § 381.22, are met. This Order shall remain in effect for a period of three (3) years from the time that inspection services resume and Respondent has met the conditions set forth in paragraphs 24 and 25 of this Order.

Terms to be completed prior to the resumption of Federal inspection services

Company Requirements

1. Prior to the resumption of Federal inspection services, and subject to verification by FSIS, Respondent shall submit to the Springdale District Manager an application for Federal Inspection with a request to change and update the ownership and management information to reflect the current individuals responsibly connected to the Respondent. FSIS will review the application and verify that the responsibly connected individuals can receive Federal poultry inspection services. Throughout the duration of this Order, Respondent shall update and submit the application for Federal Inspection as needed to accurately reflect the establishment, business, operational, and ownership/management information.
2. Prior to the resumption of Federal inspection services, and subject to verification by FSIS, Respondent shall:

a. Hire and appoint a Food Safety Coordinator who shall be responsible for the overall implementation, coordination, documentation, monitoring, recordkeeping, review, and maintenance of the food safety programs and other written programs as required by federal regulations and this Order. The Food Safety Coordinator:

   i. shall have completed, prior to resumption of inspection services, a course of instruction in the seven principles of HACCP and SSOP and shall have at least two years of work experience in food safety, quality assurance, and the FSIS regulations;

   ii. will be present at all times when operations requiring inspection are conducted, and;

   iii. shall not be an official who is, currently or was previously, in a management or supervisory position at the Respondent's facility.

3. Hire and appoint at least one Alternate to perform the Food Safety Coordinator's duties in the absence of the Coordinator. The Alternate shall have completed a course of instruction in the seven principles of HACCP and SSOP. The Alternate shall only act in the Coordinator position for no more than five days per month of inspected operations. Prior to the resumption of inspection services, Respondent will provide in writing to the FSIS ELD Director (Director), for review and concurrence, the names of the Food Safety Coordinator and the Alternate and documentation of their education and work experience as detailed above

4. Respondent shall not conduct any slaughter or processing operations in the absence of the abovementioned appointed Food Safety Coordinator or Alternate. The Coordinator and Alternate shall have the authority to hold up production, stop production, remove product

from production, or take positive control of any products produced, processed, packed, or stored at the establishment that are or are believed to be adulterated or misbranded, or when facility sanitation or production deficiencies are observed.

5. Within ten (10) calendar days of the Food Safety Coordinator vacating the assigned role, Respondent is responsible for appointing a new Food Safety Coordinator and/or alternate who meets all qualifications as detailed above. If the Alternate is reassigned as the new Food safety Coordinator, then a new alternate is required to be designated by Respondent within 10 calendar days of reassignment, subject to concurrence by the Director. Respondent may submit a request to the Director for an extension of time if the Respondent is unable to fill the role(s) within the allotted time.

Initial Assessment and Review

6. Prior to the resumption of inspection services, and subject to verification by FSIS, Respondent will contract a qualified, independent third party to conduct an initial assessment of the Respondent's facility, operations, HACCP, SSOP, and other food safety procedures and programs.

7. The qualified, independent third party must be certified by an accredited HACCP certifying organization. Respondent must submit to the Director, for review and concurrence, the name and credentials of the individual. For the purposes of paragraph 6, an independent third party shall be a person, entity, or corporation free from bias and absent from a conflict of interest with the Respondent. Specifically, the person, entity or corporation conducting the initial assessment shall not be a current or former officer, director, employee, affiliate, representative, or agent of Respondent. If the Director has good cause to believe that the initial assessment was conducted by a person, entity, or

corporation otherwise employed by or affiliated with Respondent, or with a present bias or a conflict of interest, any written assessment and report of the assessment shall be deemed disqualified for the purposes of complying with this Order.

8. The initial assessment will, at a minimum:

    a. include an on-site review and evaluation of the Respondent's facility and equipment used in slaughter and processing operations;

    b. review the HACCP, SSOP, and other related food safety programs;

    c. list and provide an analysis of the incidents of regulatory noncompliance of the HACCP, SSOP, and SPS requirements, at Respondent's facility, documented in Noncompliance Records (NR), Notices of Intended Enforcement, Notices of Suspension, or as otherwise documented by FSIS;

    d. analyze Respondent's facilities, food safety procedures, programs, and past practices and describe how they contributed, in addition to other related factors, to the regulatory violations noted in (c) above; and

    e. recommend corrective actions and preventative measures, based on the analysis, for adoption by Respondent that will prevent the recurrence of noncompliance. These corrective actions shall include, but are not limited to, structural and facility changes and repairs, reassessment and revision of food safety programs and procedures, management changes, and employee training.

9. Respondent will prepare a written response to the third party initial assessment. The written response will include, at a minimum:

a. a description of the corrective actions taken in response to the assessment recommendations or an explanation for why specific recommendations are not being considered for action; and

b. documentation demonstrating the implementation of the corrective actions, including written programs and procedures, invoices and photographs of facilities and equipment, and/or any other relevant supporting documents that prove corrective actions were taken.

10. Prior to the resumption of services, Respondent will submit a copy of the third-party initial assessment and the Respondent's written responses to the Director for review and concurrence.

Physical Conditions of Facilities and Slaughter/Processing Equipment

11. Prior to the resumption of inspection services, Respondent will address and correct any premises, facility, and equipment noncompliance issues previously identified by FSIS, or identified by FSIS at the time of the physical plant review conducted pursuant to paragraph 12 of this Order. Respondent shall provide the Director for review and concurrence documentation demonstrating the completion of repairs, service, or other corrective actions, including (but not limited to), reports of service from contractors, receipts, and photographic evidence of facilities and equipment.

12. Prior to the resumption of inspection services, and subject to verification by FSIS, Respondent shall demonstrate compliance with all applicable FSIS statutory and regulatory requirements, including but not limited to 9 C.F.R. Parts § 307, 381, 416, 417, and 418, upon a review and examination of:

a. Respondent's SPS, SSOP, HACCP system, *Salmonella* and *Campylobacter spp.* sampling and testing programs, Planned Improvement Program (PIP), Sanitary Dressing Program, Good Commercial Practices (GCP) Program, Management and Employee Training procedures, and other written sanitation, process controls, corrective actions, and sampling or testing programs required by regulation or this Order; and

b. the physical and sanitary conditions of Respondent's establishment.

Sanitation Performance Standards (SPS)

13. Prior to the resumption of inspection services, and subject to verification by FSIS, Respondent shall:

a. develop written procedures, including monitoring, corrective action, and recordkeeping procedures that Respondent will implement to operate and maintain its establishment, including its premises, facilities, equipment, and outside premises in a manner sufficient to: (i) prevent the creation of insanitary conditions and practices; (ii) comply with the requirements of SPS regulations (9 C.F.R. § 416.1 to § 416.5); and (iii) ensure that meat and meat food products, and poultry and poultry products that are prepared, packed, and stored at Respondent's facility are not adulterated or misbranded;

b. develop additional procedures for grounds and pest control, including monitoring, corrective action, and recordkeeping procedures, that Respondent will implement to prevent the harborage and breeding of pests on the grounds and within establishment facilities. Procedures shall include, at a minimum:

i. at least daily examination of the facilities and structure for potential pest entry ways, attractants, and evidence of harborage and breeding;

ii. at least monthly service by an independent contracted pest control service to audit the facility and grounds and recommend corrective actions and preventative measures to be implemented by the Respondent; and

iii. the review and maintenance of records associated with program implementation, including the contracted pest service audits, findings, and reports, and corrective actions taken by Respondent, to be available for review by FSIS.

Planned Improvement Program

14. Prior to the resumption of Federal inspection services, and subject to verification by FSIS, Respondent shall develop a "Planned Improvement Program" (PIP) designed to identify and correct noncompliance and to ensure that the entire structure of the facility, including its rooms and compartments, is of sound construction and that all equipment is maintained in proper working order and kept in good repair.

15. Written procedures shall include, at a minimum, (i) the at least daily evaluation of the facility structure and equipment for sound construction and proper working order, and (ii) the implementation and documentation of corrective actions to be taken in response to negative findings, including timelines for the completion of scheduled repairs.

Sanitation Standard Operating Procedures (SSOPs)

16. Prior to the resumption of Federal inspection services, and subject to verification by FSIS, Respondent shall:

    a. develop written sanitation standard operating procedures (SSOPs) to describe the monitoring activities, recordkeeping, and other procedures that Respondent will implement, conduct, and maintain, on a daily and ongoing basis, before, during, and after operations, in accordance with this Order and regulatory requirements (9 C.F.R. § 416.11 to § 416.16) to ensure sanitary conditions and prevent product adulteration; and

    b. ensure that its SSOPs include specific, written instructions addressing, at a minimum, the following procedures: (i) cleaning and sanitizing of food contact surfaces of facilities, equipment and utensils; (ii) complex equipment use and methods of cleaning; (iii) proper handling, storage, denaturing, and disposal of inedible products; (iv) re-conditioning of contaminated product; and (v) employee hygienic practices. These written instructions shall specify the frequency of each aforementioned procedure.

Hazard Analysis and Critical Control Points (HACCP) System

17. Prior to the resumption of inspection services, and subject to verification by FSIS, respondent shall:

    a. reassess its HACCP system and plans to describe each system of process controls and procedures that Respondent will implement, conduct, and maintain on a daily and ongoing basis to control and prevent the introduction of food safety hazards in its poultry and poultry food products. These plans shall address specific process

controls and procedures within Respondent's HACCP system, including but not limited to, the following: (i) measures to identify biological, chemical, and physical food safety hazards reasonably likely to occur at each process step, and to eliminate such hazards or reduce them to undetectable levels; (ii) measures to address *Salmonella* spp., *Campylobacter* spp., and microbial outgrowth as hazards likely to occur in the process; and (iii) measures to eliminate or reduce and control the level of pathogens to prevent contamination of Respondent's finished product; and

b. retain all decision-making documents for its HACCP system and plans, including its hazard analysis or analyses, validation protocols, and all parameters used in said protocols, and data to support the food safety systems.

Sanitary Dressing Procedures

18. Prior to the resumption of inspection services, and subject to verification by FSIS, respondent shall develop written sanitary dressing procedures, including monitoring, corrective action, and recordkeeping procedures, that Respondent will implement to reduce contamination of poultry carcasses and parts by fecal material and enteric pathogens. The procedures shall be incorporated into Respondent's HACCP plan, SSOP, or pre-requisite program in accordance with 9 C.F.R. § 381.65(g). The procedures shall include, at a minimum:

    a. live bird feed withdraw parameters prior to slaughter;

    b. procedures the holding of birds prior to slaughter and the cleaning and sanitizing of cages to reduce cross contamination;

c. live receiving and live hanging procedures, including employee hygiene and traffic flow patterns for personnel assigned to those areas, to reduce cross contamination;

d. stunning, bleeding, scalding, and feather removal procedures to prevent or reduce pathogen contamination;

e. procedures for carcass evisceration to prevent ingesta and fecal contamination including employee hygiene standards to be followed by personnel assigned to those areas;

f. procedures for the washing or spraying of carcasses to remove contamination, including specific parameters for water pressure and antimicrobial levels;

g. procedures for the monitoring and evaluation of carcasses prior to entering the chiller to ensure carcasses are not contaminated with feces, ingesta, or foreign materials; and

h. procedures for the sampling and analysis of microbial organisms in accordance with the requirements of 9 C.F.R. § 381.65(g).

***Salmonella* spp. and *Campylobacter* spp. Sampling and Testing Program**

19. Prior to the resumption of inspection services, and subject to verification by FSIS, Respondent shall:

a. conduct a review of all poultry sample collection records and analytical test results for *Salmonella* spp. and *Campylobacter* spp. collected by Respondent from May 1, 2017, to April 19, 2018. The review must address a comprehensive analysis to assess microbial prevalence rates, cite the cause of the test positive results, and provide sustainable corrective actions to reduce carcass contamination

and ensure process control. Respondent will submit the written analysis, copies of all records reviewed, and the corrective actions and preventative measures to the Director for review and concurrence; and

b. develop, implement and maintain written *Salmonella* spp. and *Campylobacter* spp. sampling and testing programs to describe:

   i. the products to be sampled and the collection methods for all sampled products;

   ii. sample frequencies to include collection of, at a minimum, two product samples twice daily, at the post-chilling step;

   iii. AOAC approved analytical methods utilized by contract laboratory;

   iv. the routine evaluation of product test results to determine process control and loss of process control;

   v. corrective actions and preventative measures to be taken in response to product test results; and

   vi. records that the Respondent will produce and maintain as part of its process control system.

Good Commercial Practices (GCP) Program

20. Prior to the resumption of inspection services, and subject to verification by FSIS, Respondent shall develop a written GCP program, to include monitoring, corrective action, and recordkeeping procedures, to ensure live birds are handled in a manner that is consistent with good commercial practices. The written program shall assess under what circumstances poultry may experience excitement, discomfort, and accidental injury the entire time live birds are held in connection with slaughter and address procedures to be

implemented and monitored that minimize the possibility of such excitement, discomfort, and accidental injury.

21. The GCP program shall also include:

    a. procedures for the scheduling and delivery of live birds prior to slaughter to reduce the incidence of bird holdover times longer than 24 hours and euthanasia of birds for reasons unrelated to antemortem condemnation, including procedures for diverting birds that cannot be slaughtered at the facility within a reasonable timeframe;

    b. bird holding procedures prior to slaughter and actions to take in the event of inclement weather conditions to protect live birds;

    c. cage density parameters per size and weight of birds to avoid overcrowding, taking into account environmental conditions;

    d. unloading and hanging/shackling procedures to prevent injury and harm to live birds;

    e. procedures for the humane euthanasia of birds condemned on antemortem;

    f. procedures to ensure the effective stunning, cutting, and bleeding of birds to prevent the occurrence of cadavers; and

    g. procedures for the at-least quarterly evaluation of the GCP program to ensure that (i) excitement, discomfort, or accidental injury is being minimized; (ii) that all poultry are slaughtered in a manner that results in thorough bleeding of the poultry carcass; and (iii) that breathing has stopped before scalding.

22. Prior to the resumption of inspection services, and subject to verification by FSIS, Respondent shall train all managers, supervisors, and employees handling live birds on

the procedures contained within the GCP program. Respondent shall provide all documentation of training materials, including training sign-off sheets, testing materials, or other documents, to the Director for review and concurrence.

Management and Employee Training

23. Prior to the resumption of inspection services, and subject to verification by FSIS, Respondent shall will ensure training for Respondent's management, supervisors, and employees involved in the preparation, processing, and/or production of poultry and poultry products in all aspects of food safety measures and regulatory requirements. This training will be conducted by a qualified, independent third party and will include, at a minimum, the requirements of the SPS and SSOP programs, HACCP plans, *Salmonella* spp. and *Campylobacter* spp. sampling and testing program, Planned Improvement Program (PIP), other written sanitation, process controls, corrective actions, and sampling or testing programs, and recordkeeping procedures relevant to each employee's position.
24. Prior to resumption of inspection services, Respondent will submit to the Director, for review and concurrence, a copy of all training and educational program materials, including training records, test results, and any other materials and records for the training described in paragraph 23 of this Order.

Terms to be met upon the resumption of Federal inspection services

Validation of the HACCP Plan

25. Upon the resumption of inspection services and within the initial ninety (90) days of inspected operations, Respondent will validate its HACCP plan in accordance with 9 C.F.R. § 417.2, § 417.4, and § 381.22.

26. Upon completion of the 90-day validation period, Respondent shall submit all records and documents associated with HACCP plan validation, including, but not limited to, records demonstrating the testing of the adequacy of the CCP's, critical limits, monitoring and record keeping procedures, and corrective actions set forth in the HACCP plan, to the Director for review and concurrence.

27. If the Director determines that the Respondent has not validated the HACCP system, or has not met any other terms of the Order as of that time, the Administrator, FSIS, will have the right to summarily refuse and withdraw inspection services. It is acknowledged that Respondent retains the right to request an expedited hearing pursuant to the Rules of Practice, 9 C.F.R. § 500, concerning any violation alleged as the basis for a summary withdrawal of inspection services. This does not affect Complainant's right to suspend operations in accordance with Rules of Practice, 9 C.F.R. § 500.

Sanitation Performance Standards (SPS)

28. Upon the resumption of inspection services, and subject to verification by FSIS, Respondent shall:

    a. implement and maintain its SPS and pest control procedures as detailed in paragraph 13 of this Order;

    b. routinely assess its written SPS and pest control procedures to evaluate their effectiveness, and make necessary improvements, corrections, and repairs to the establishment buildings, structures, rooms, and compartments to ensure that they are kept in good repair and have sufficient size to allow for processing, handling, and storage of product in a manner to ensure and maintain sanitary conditions, and to preclude harborage and breeding of pests; and

c. maintain records associated with the program implementation, including the contracted pest service audits, findings, and reports, and corrective actions taken by Respondent, to be available for review by FSIS.

Planned Improvement Program

29. Upon the resumption of inspection services, and subject to verification by FSIS, Respondent shall implement and maintain the PIP as required by paragraphs 14 and 15 of this Order, and document any findings and corrective actions to address structural and/or mechanical repairs and/or improvements to their facility and make these records available to FSIS for review and/or copying upon request.

30. Upon the resumption of inspection services, and subject to verification by FSIS, Respondent agrees to suspend slaughter operations in response to findings of mechanical failures and inadequate function of the coolers, chill tanks, all antimicrobial delivery systems, and water delivery and pressure maintenance systems until repairs are completed and FSIS is allowed to review and give concurrence of the corrective actions and repairs.

Sanitation Standard Operating Procedures (SSOPs)

31. Upon the resumption of inspection services, and subject to verification by FSIS, Respondent shall:

    a. implement and maintain, on a daily and ongoing basis, its SSOP system as provided in paragraph 16 of this Order and regulatory requirements of 9 C.F.R. § 416.11 to § 416.16 to ensure sanitary conditions and prevent product adulteration; and

b. implement and document all corrective and preventive actions, as required by 9 C.F.R. § 416.15; routinely evaluate the effectiveness of its SSOPs; and implement necessary modifications as required by 9 C.F.R. § 416.14 to ensure that regulatory requirements for the maintenance of sanitary conditions and the production and distribution of safe, wholesome, not adulterated, and properly labeled products in commerce are met.

Hazard Analysis and Critical Control Points (HACCP) System

32. Upon the resumption of inspection services and after completion of the initial HACCP plan validation period, and subject to verification by FSIS, Respondent shall:

a. implement, monitor, verify, and maintain on a daily and ongoing basis the HACCP system and plans, in accordance with the regulatory requirements of 9 C.F.R. Part § 417 and as provided in paragraph 17 of this Order;

b. implement timely and appropriate corrective and preventive actions and reassess and modify its HACCP system and plans as necessary to ensure that the regulatory requirements for the control and prevention of pathogens and the production and distribution of wholesome, unadulterated, and properly labeled products in commerce are met, as required by and consistent with 9 C.F.R. Part § 417; and

c. conduct ongoing assessments, validation, and testing of the adequacy of the critical control points, critical limits, monitoring, and record-keeping procedures, and corrective actions set forth in the HACCP system and plans, to ensure that Respondent's food safety systems remain validated over time, as required by 9 C.F.R. Part § 417.

Sanitary Dressing Procedures

33. Upon the resumption of inspection services, and subject to verification by FSIS, Respondent shall:

    a. Implement, monitor, and maintain records on a daily and ongoing basis, its Sanitary Dressing Procedures, and document all corrective and preventive actions, in accordance with 9 C.F.R. § 381.65(h) and as provided in paragraph 18 of this Order, to ensure sanitary conditions and prevent product contamination and adulteration; and

    b. routinely evaluate the effectiveness of its Sanitary Dressing Procedures, and implement necessary program modifications to ensure that sanitary conditions are maintained.

***Salmonella* spp. and *Campylobacter* spp. Sampling and Testing Program**

34. Upon the resumption of inspection services, and subject to verification by FSIS, the Respondent shall:

    a. implement and maintain its written *Salmonella* spp. and *Campylobacter* spp. sampling and testing procedures, as provided in paragraph 19; and

    b. implement and document corrective actions taken in response to testing results indicating loss of process control. Corrective actions shall include a reassessment of the HACCP system in accordance with 9 C.F.R. § 417.4 and will demonstrate restoration of process control.

35. Upon the resumption of inspection services, and subject to verification by FSIS, the Respondent shall make its written *Salmonella* spp. and *Campylobacter* spp. sampling and

testing programs and all records associated with the sampling and testing programs, including supporting information, data or other decision making documents, available to FSIS personnel for review and/or copying immediately upon such request by FSIS.

Good Commercial Practices (GCP) Program

36. Upon the resumption of inspection services, and subject to verification by FSIS, the Respondent shall:

    a. implement and maintain its GCP program as provided in paragraphs 20 and 21;

    b. implement and document corrective actions taken in response to findings not consistent with the written program and procedures or the regulatory requirements contained within 9 C.F.R. § 381.65(b);

    c. conduct annual for all managers, supervisors, and employees handling live birds on the procedures contained within the GCP program;

    d. train and educate any new managers, supervisors, and employees handling live birds with the requirements of paragraph 21 within ten (10) calendar days of the first date of employment; and

    e. maintain records associated with the program implementation and training of personnel to be available for review by FSIS.

Management and Employee Training

37. Upon the resumption of inspection services, and subject to verification by FSIS, Respondent will:

    a. train and educate any new manager, supervisor, and employee involved in the preparation, processing, and/or production of poultry and poultry products prior to

starting work duties, consistent with the requirements paragraph 23 of this Order; and

b. conduct annual training for all employees, current and new, consistent with the requirements of this Order.

38. Upon the resumption of inspection services, and subject to verification by FSIS, Respondent will make all training and education materials, training records, test results, and other materials and records of the initial and annual training of current and new employees and management personnel available to FSIS personnel for review and/or copying immediately upon such request by FSIS.

Third Party Audits

39. Upon resumption of inspection services, and subject to verification by FSIS, Respondent shall cause to be made, by an independent third party, who is certified by an accredited HACCP certifying organization, written audits of Respondent's effective implementation, monitoring, and maintenance of its SPS, SSOP, HACCP, Planned Improvement Program, Sanitary Dressing Program, *Salmonella* spp. and *Campylobacter* spp. sampling and testing programs, GCP program, and other all other food safety and sanitation programs required by regulation or this Order.

40. The audits shall be conducted no earlier than thirty (30) calendar days but not to exceed sixty (60) calendar days, from the resumption of inspection services; and subsequent audits shall be conducted every (180) calendar days thereafter for the duration of this Order.

41. Respondent shall prepare, for each audit conducted, a written response to the audit findings and recommendations. Respondent's written response shall identify:

a. any modifications to the programs reviewed by the auditor;

b. any corrective actions or any other actions implemented or planned in response to the audit findings and recommendations; and

c. supportable information and reasoning for any decision by Respondent to not implement any audit recommendation.

42. Respondent shall submit a copy of each third party audit, a copy of Respondent's written response, or other documents related to the audit to the Director, ELD, for review and concurrence within thirty (30) calendar days after each audit is completed.

43. For the purposes of paragraphs 39 through 41, an independent third party shall be a person, entity, or corporation free from bias and absent from a conflict of interest with the Respondent. Specifically, the person, entity or corporation conducting an audit shall not be a current or former officer, director, employee, affiliate, representative, or agent of Respondent. If the Director has good cause to believe that an audit was conducted by a person, entity, or corporation otherwise employed by or affiliated with Respondent, or with a present bias or a conflict of interest, any written audit and report of the audit shall be deemed disqualified for the purposes of complying with this Order. This person shall not be the person in paragraph 6, who conducted the initial assessment.

Recordkeeping

44. Upon the resumption of inspection services, and subject to verification by FSIS, Respondent will keep and maintain full, complete and accurate copies of (a) all written records required by the PPIA, the regulations promulgated thereunder, and all applicable State or local statutes; and (b) written records of all of its SPS and SSOP programs, HACCP plans, Planned Improvement Program, Sanitary Dressing Program, *Salmonella*

spp. and *Campylobacter* spp. sampling and testing programs, GCP program, and other all other food safety and sanitation programs required by this Order.

45. Respondent shall immediately submit to the Director of any changes or modifications to its SPS and SSOP programs, HACCP plans, Planned Improvement Program, Sanitary Dressing Program, *Salmonella* spp. and *Campylobacter* spp. sampling and testing programs, GCP program, or any other all other food safety and sanitation programs required by regulation or this Order and all associated recordkeeping forms.

46. Respondent shall make all records regarding its federally inspected establishment or other regulated business or business activities at said establishment available to FSIS personnel for review and/or copying immediately upon such request by FSIS.

General Provisions

47. Respondent and any of its owners, officers, directors, partners, employees, agents, successors, affiliates, or assigns shall not:

    a. violate any section of the PPIA or regulations promulgated thereunder, any State or local statute involving the preparation, sale, transportation, or attempted distribution of any adulterated, non-inspected, misbranded or deceptively packaged poultry and poultry food products;

    b. commit any felony or fraudulent act or other criminal act involving fraud, conspiracy, bribery, or any other act or circumstances indicating a lack of integrity needed for the conduct of operations affecting public health;

    c. willfully make or cause to be made any false entry into any accounts, records, reports, or memoranda kept by respondent in compliance with Federal, State or local statutes or regulations or this Order; neglect or fail to make full, true, and

correct entries in such accounts, records, reports or memoranda; and fail to keep such accounts, records, reports, or memoranda that fully and correctly disclose all transactions in respondent's business;

d. assault, intimidate, impede, threaten or interfere with any program employee in the performance of his or her official duties under the PPIA or regulations promulgated thereunder; and

e. conduct any operation requiring Federal inspection outside respondent's official hours of operations without first submitting a written request to, and receiving written approval from FSIS.

48. Respondent shall fully and completely cooperate with any FSIS investigation, inquiry, review, or examination of respondent's compliance with the PPIA or this Order.

Enforcement Provisions

49. The Administrator, FSIS, will have the right to summarily withdraw inspection services upon a determination by the Director, or his or her designee, that one or more conditions set forth in paragraphs 1 through 48 of this Order have been violated. It is acknowledged that Respondent retains the right to request an expedited hearing pursuant to the Rules of Practice, 9 C.F.R. § 500, concerning any violation alleged as the basis for a summary withdrawal of inspection services. This does not affect Complainant's right to suspend operations in accordance with Rules of Practice, 9 C.F.R. § 500.

50. Nothing in this Order will preclude the referral of any violation of law to the U.S. Department of Justice for possible criminal or civil proceedings, or preclude the Administrator from taking other appropriate administrative action under the PPIA and the regulations promulgated thereunder.

51. If any provision of this Order is declared invalid, such declaration will not affect the validity of any other provision herein. This Order will be considered issued and effective on the date of signature by an Administrative Law Judge.

52. This Order will expire three (3) years from the date on which the Respondent's Federal inspection services resume, pursuant to the terms of this Order, and Respondent has met the conditions set forth in paragraphs 25 and 26 of this Order.

Copies of this decision and order shall be served upon the parties.

Done at Washington, D.C.

this 20 day of July, 2018

[redacted]

Acting Chief Administrative Law Judge

Channing D. Strother

Summit, Poultry, Inc., Respondent

By: [redacted]

Rory Botto

Title: President

[redacted]

Scott C. Safian, Director
Enforcement and Litigation Division
Food Safety and Inspection Service
U.S. Department of Agriculture

[redacted]

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United States Department of Agriculture
Office of the General Counsel