

U.S. DEPARTMENT OF AGRICULTURE

SECRETARY OF AGRICULTURE

U.S. DEPARTMENT OF AGRICULTURE
FOOD SAFETY AND INSPECTION SERVICE
WASHINGTON, D.C. 20250

In re:) FMIA Docket No.06-0003
)
Champlain Beef Company, Inc.)
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)
)
Respondent.) CONSENT DECISION

This proceeding was instituted under the Federal Meat Inspection Act (FMIA), as amended (21 U.S.C. §§ 601 *et seq.*), to withdraw federal inspection services from respondent. This proceeding was commenced by a complaint filed by the Administrator, Food Safety and Inspection Service (FSIS), United States Department of Agriculture (USDA). This decision is entered pursuant to the consent decision provisions of the rules of practice applicable to this proceeding (7 C.F.R. § 1.138).

The respondent admits the findings of fact, as set forth herein, and specifically admits that the Secretary has jurisdiction in this matter. The respondent neither admits nor denies the remaining allegations and waives oral hearing and further procedure. Respondent, its owners, officers, directors, partners, successors, assigns, and affiliates waive any claim against complainant under the Equal Access to Justice Act of 1980 (5 U.S.C. § 504 *et seq.*) and waive any other action against USDA or its employees in connection with this proceeding and the facts and events that gave rise to this proceeding. Respondent consents and agrees, for the purpose of settling this proceeding and for such purpose only, to the entry of this decision.

The complainant agrees to the entry of this decision.

FINDINGS OF FACT

1. Respondent Champlain Beef Company, Inc., is, and at all times material herein was, a corporation organized and existing under the laws of the State of New York and operating a meat slaughter and processing establishment located at 9679 State Route 4, Whitehall, NY 12887.

2. On October 21, 1974, Respondent was granted federal inspection services pursuant to the FMIA, at its establishment designated as Official Establishment 08547-M.

3. Respondent was issued a revised grant of federal inspection services, under the FMIA, on or about March 29, 2004.

4. Jeffrey Cuomo is, and at all times material herein was, President of Respondent's corporation.

5. Barton Cuomo is, and at all times material herein was, Vice-President of Respondent's corporation.

6. Joshua Cuomo is, and at all times material herein, was Manager of Respondent's federally inspected establishment.

CONCLUSIONS

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

ORDER

1. Federal meat inspection services under the FMIA are withdrawn from respondent, its owners, officers, directors, successors and assigns for a period of three (3) years beginning on the

effective date of this Order. Provided, however, the withdrawal of inspection shall be held in abeyance, and inspection services shall be provided to respondent for so long as the conditions set forth below, in addition to all other applicable requirements for inspection services, are met.

2. Prior to the resumption of inspection services, and subject to verification by FSIS, Respondent shall demonstrate compliance with FSIS statutory and regulatory requirements, including, but not limited to, 9 C.F.R. Parts 310, 416 and 417, upon a review and examination of (a) Respondent's SSOP, HACCP, residue, specified risk material, *Escherichia coli*, and other written sanitation, process controls, corrective actions, and sampling and testing programs and (b) of the physical and sanitary conditions of the establishment.

Sanitation Performance Standards

3. Prior to the resumption of inspection services, and subject to verification by the FSIS District Manager and/or designees, Respondent shall:

(a) develop written procedures, including monitoring, corrective action, and recordkeeping procedures that the establishment will implement to operate and maintain its establishment, including its premises, facilities, equipment and outside premises, in a manner sufficient to prevent the creation of insanitary conditions and practices, comply with the requirements of the Sanitation Performance Standard (SPS) regulations (9 C.F.R 416.1 to 416.6), and ensure that meat and meat products prepared, stored and packed are not adulterated;

(b) demonstrate that its premises, facilities and equipment are sanitary and meet the SPS regulatory requirements;

(c) address and repair any premises, facility and/or equipment issues, identified by FSIS at the time of the physical plant review conducted pursuant to paragraph 2 of this Order, that do not comply with FSIS regulatory requirements; and,

(d) provide a copy of its written SPS to the FSIS District Manager and/or designees.

4. Upon the resumption of inspection services, and subject to verification by the FSIS District Manager and/or designees, Respondent shall:

(a) operate and maintain, at all times, its establishment, including its premises, facilities, equipment and outside premises, in a manner sufficient to prevent the creation of insanitary conditions and practices, comply with the requirements of the SPS regulations, and ensure that meat and meat food products are not adulterated;

(b) implement and maintain its written SPS, as provided in paragraph 3, on a daily and ongoing basis to ensure sanitary conditions, compliance with SPS, and maintenance of its premises, facilities, equipment and outside premises in a sanitary manner;

(c) routinely assess its written SPS to evaluate its effectiveness, and make necessary improvements, corrective actions, or repairs to the program or to the establishment premises, facility or equipment, needed to ensure and maintain sanitary conditions; and,

(d) document and maintain records of the implementation and monitoring of its written SPS, and of any corrective actions.

5. Respondent shall make all records regarding the implementation and monitoring of its written SPS and of any corrective actions available to FSIS personnel for review and/or copying immediately upon such request by FSIS.

Sanitation Standard Operating Procedures

6. Prior to the resumption of inspection services, and subject to verification by the FSIS District Manager and/or designees, Respondent shall:

(a) develop written sanitation standard operating procedures (SSOP) to describe the procedures, monitoring activities, recordkeeping, and other procedures Respondent will conduct, implement 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;

(b) address specific procedures within its written SSOP, including the following: (i) cleaning and sanitizing equipment and utensils; (ii) written instructions for complex equipment use and methods of cleaning; (iii) proper handling, storage, denaturing, and disposal of inedible products; (iv) re-conditioning of contaminated product; (v) procedures for taking product temperature in a sanitary manner; and, (vi) employee hygienic practices; and,

(c) provide a copy of its written SSOP to the FSIS District Manager and/or designees.

7. Upon the resumption of inspection services, and subject to verification by the FSIS District Manager and/or designees, Respondent shall:

(a) implement and maintain, on a daily and ongoing basis, its SSOP system, as provided in paragraph 6, in accordance with this Order and regulatory requirements, 9 C.F.R part 416, to ensure sanitary conditions and prevent product adulteration;

(b) implement corrective and preventive actions, as required by 9 C.F.R 416.15, and routinely evaluate the effectiveness of its SSOP and implement necessary modifications, as required by 9 C.F.R 416.14, as necessary 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 are met; and,

(c) document and maintain records regarding the implementation and monitoring of the SSOP procedures, corrective and preventive actions, and any decision-making documents regarding SSOP evaluation and review.

8. Respondent shall make its SSOP, revised SSOP and all SSOP record(s) available to FSIS personnel for review and/or copying immediately upon such request by FSIS.

Hazard Analysis and Critical Control Points (HACCP) System

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

(a) develop a Raw-Not Ground, Raw-Ground, and Slaughter HACCP plans to describe the process control systems and procedures Respondent will conduct, implement, and maintain, on a daily and on-going basis, in accordance with this Order and regulatory requirements, 9 C.F.R. Part 417, to control and prevent the introduction of food safety hazards in meat and meat food products;

(b) address and include, specifically, within its HACCP system and plans, procedures for:
(i) monitoring of critical control points and critical limits; (ii) corrective actions and preventive measures in response to a deviation from a critical limit, and corrective actions for unforeseen hazards; (iii) on going verification activities, to include: calibration of process monitoring instruments, direct observation of monitoring procedures and corrective actions, and review of records; (iv) monitoring prerequisite programs that support the written HACCP plans and hazard

analysis; (v) pre-shipment review for all products produced; and (vi) recordkeeping of HACCP supporting documents and records;

(c) address and include, specifically, within its written HACCP systems and plans, appropriate process controls and procedures for changes that have occurred that may have affected the hazard analysis or may require revision of the HACCP plan(s), including the following: (i) supporting documents for the frequency of monitoring and verification procedures; (ii) supporting documents for decision-making in the selection of critical control points and critical limits; (iii) technical, scientific, and/or in-plant study data/documentation to validate the effectiveness of the established controls to prevent identified hazards reasonably likely to occur; and, (iv) procedures, prerequisite programs, specifications, letters of guarantee, SSOP validations, and other documents to support and validate hazards not reasonably likely to occur; and,

(d) provide a copy of its written HACCP system, plans, and supporting documentation to the FSIS District Manager and/or designees.

10. Upon the resumption of inspection services, and subject to verification by the FSIS District Manager and/or designees, Respondent shall:

(a) implement, validate and maintain, on a daily and on-going basis, its HACCP systems and plans, as provided in paragraph 9, in accordance with this Order and the regulatory requirements, 9 C.F.R. Part 417;

(b) implement timely and appropriate corrective and preventive actions, as required by 9 C.F.R. 417.3, 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, not adulterated and properly labeled products are met, as required by 9 C.F.R. Part 417;

(c) conduct ongoing assessment, 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 the establishment's food safety systems remain validated over time, as required by 9 C.F.R. Part 417;

(d) modify its written HACCP system and plans, subject to verification by the FSIS District Manager and/or designees, whenever appropriate or required by regulations, 9 C.F.R. Part 417; and,

(e) document and maintain records regarding the implementation, monitoring, and verification of its HACCP system and plans, and corrective and preventive actions, and any decision-making and supporting documents, as required by 9 C.F.R. Part 417.

11. Respondent shall make all plant and regulatory records relative to its HACCP system and plans, including supporting information and data for its hazard analysis or other decision-making documents, available to FSIS personnel for review and/or copying immediately upon such request by FSIS.

Escherichia coli Sampling and Testing Program

12. Prior to the resumption of inspection services, and subject to verification by the FSIS District Manager and/or designees, Respondent shall:

(a) develop, implement and maintain written *Escherichia coli* (*E.coli*) Biotype I and *Escherichia coli* (*E.coli*) 0157:H7 sampling and testing programs to describe the procedures for

sampling of products, sampling methodology, frequency, analyses, and recording that Respondent will conduct as part of its process control systems; and,

(b) provide a copy of its written *E. coli* sampling and testing programs to the FSIS District Manager and/or designees.

13. Upon the resumption of inspection services, and subject to verification by the FSIS District Manager and/or designees, Respondent shall:

(a) implement and maintain its written *E. coli* sampling and testing procedures, as provided in paragraph 12; and

(b) collect samples, test for *E. coli* Biotype I, and *E. coli* 0157:H7, and record and analyze sample results in accordance with 9 C.F.R. 310.25.

14. Respondent shall make its written *E. coli* Bio-type I and *E. coli* 0157:H7 sampling and testing programs and all records relative to said sampling and testing programs, including supporting information and data or other decision making documents, available to FSIS personnel for review and/or copying immediately upon such request by FSIS.

Residue Control Program

15. Prior to the resumption of inspection services, and subject to verification by the FSIS District Manager and/or designees, Respondent shall:

(a) develop a written residue control program, including monitoring, verification, corrective and preventive actions, and recordkeeping, that it will implement and maintain on a

daily and on-going basis, to ensure that livestock suspected of having been treated with or exposed to any substance that may impart a biological residue is not slaughtered or processed for human consumption in accordance with the requirements of 9 C.F.R. 309.16;

(b) address specific procedures within its residue control program, including the following:

(i) receiving of animals; (ii) identification with lot number of animals for trace back to suppliers; (iii) monitoring, documenting and recordkeeping of findings; (iv) notification of violations to suppliers; and (v) corrective actions and preventive measures; and,

(c) provide a copy of its written residue control program to the FSIS District Manager and/or designees.

16. Upon the resumption of inspection services, and subject to verification by the FSIS District Manager and/or designees, Respondent shall implement and maintain, on a daily and on-going basis, its written residue control program, as provided in paragraph 15.

17. Respondent shall make all records relative to its residue control program, including supporting information or other decision making documents, available to FSIS personnel for review and/or copying immediately upon such request by FSIS.

Specified Risk Material Program

18. Prior to the resumption of inspection services, and subject to verification by the FSIS District Manager and/or designees, Respondent shall:

(a) develop a written hazard control program for specified risk material (SRM), including monitoring, verification, corrective and preventive actions, and recordkeeping that it will

implement and maintain, on a daily and on-going basis, to ensure the control of SRM material and regulatory compliance with 9 C.F.R. Parts 309, 310, 311, 313;

(b) address specific procedures within its SRM program, including the following: (i) identification of animals; (ii) determination of the age of cattle; (iii) receiving and holding controls; (iv) removal, segregation and control of SRM material from cattle slaughtered at the establishment; (v) removal of tonsils; (vi) ensuring no cross-contamination with edible products; and (vii) ensuring monitoring, verification and recordkeeping activities; and,

(c) provide a copy of its written SRM program to the FSIS District Manager and/or designees.

19. Upon the resumption of inspection services, and subject to verification by the FSIS District Manager and/or designees, Respondent shall implement and maintain, on a daily and on-going basis, its written SRM removal program, as provided in paragraph 18.

20. Respondent shall make all records relative to its SRM removal program, including supporting information or other decision making documents, available to FSIS personnel for review and/or copying immediately upon such request by FSIS.

Lactic Acid Antimicrobial Intervention Validation

21. Upon the resumption of inspection services, and subject to verification by the FSIS District Manager and/or designees, Respondent shall:

(a) evaluate, validate and implement a lactic acid antimicrobial intervention as particular to the establishment to ensure the prevention, reduction or elimination of microorganisms of concern to below detectable levels to ensure the production of safe and wholesome product;

(b) sample and test carcasses to determine the effectiveness of the lactic acid antimicrobial intervention in reducing or eliminating bacterial contaminants on carcasses.

22. Respondent shall make all records relative to the lactic acid antimicrobial intervention and validation, including supporting information or other decision making documents, available to FSIS personnel for review and/or copying immediately upon such request by FSIS

Establishment Management and Personnel

23. Prior to the resumption of inspection services, and subject to verification by the FSIS District Manager and/or designees, Respondent shall modify its responsible establishment personnel as follows:

(a) Mr. Joshua Cuomo will assume the position of HACCP Manager for Respondent corporation. As HACCP Manager, Joshua Cuomo will be responsible for: (i) overall management and implementation, coordination, monitoring, verification, validation, reassessment, pre-shipment review, record keeping, review and maintenance of the establishment's sanitation, SSOP, HACCP, *E.coli*, residue, SRM, and other sanitation, process control, sampling and testing programs, systems, and plans, as required by and consistent with the FMIA, the meat inspection regulations, and the requirements of this Order; (ii) communicate directly with FSIS personnel at all levels; (iii) make oral and written responses to noncompliance records and appeal the findings of FSIS program personnel; (iv) slow, hold-up or stop production; (v) remove product from production; (vi) take positive control of any manufactured or stored product which is believed to be adulterated, misbranded or otherwise unsafe; (vii) make decisions concerning product disposition, including product destruction; (viii) recall any potentially adulterated or misbranded

product that has reached any distribution channel; (ix) make decisions concerning product labeling; (x) conduct or supervise the preparation of records, monitoring, verification or other production and regulatory procedures; (xi) oversee the effective implementation and execution of the HACCP system, including determinations for pre-shipment review; and, (xii) take corrective action, as defined in FSIS regulations, for any deviation or noncompliance related to the plant's sanitation and food safety programs.

(b) Mr. Jeffrey Cuomo may retain his position as President of Respondent corporation. As President, he will be responsible for managing plant operations, including responsibilities for hiring and firing of personnel, financial recordkeeping, production operations, sales and other related management functions. Provided however, that his responsibilities as President shall not interfere with or circumvent the assigned responsibilities and authorities of the HACCP Manager as outlined in paragraph (a).

(c) Mr. Barton Cuomo may retain his position as Vice-President of Respondent corporation. However, Barton Cuomo's duties and responsibilities shall be limited to cattle purchasing, sales and marketing activities of Respondent corporation's finished products. Barton Cuomo may not: (i) provide direction to or exercise operational control over matters regulated by the FMIA; (ii) be present during interactions with FSIS personnel concerning any matter regulated under the FMIA; and (iv) have supervisory or management responsibilities concerning any matter regulated under the FMIA. Barton Cuomo may be given limited additional non-managcrial duties, subject to the concurrence of the Director, USDA, FSIS Evaluation and Enforcement Division (EED).

24. Prior to the resumption of inspection services, and subject to verification by FSIS, Respondent shall submit all documentation, including job descriptions for Jeffrey Cuomo, Barton Cuomo, and Joshua Cuomo covering the duties and responsibilities of their positions as limited by paragraph 23 for approval by the Director, EED.

25. Within thirty (30) days of the resumption of operations, and subject to the concurrence of the Director, EED, Respondent shall designate, in writing, an alternate responsible for conducting the functions and duties of the HACCP Manager in the HACCP Manager's absence. Provided, however that Barton Cuomo and Jeffrey Cuomo shall not serve as the alternate.

26. Within thirty (30) days of the resumption of operations, and subject to the concurrence of the Director, EED, Respondent shall designate in writing an alternate responsible for conducting the functions and duties of the President in his absence. Provided, however, that Barton Cuomo and Joshua Cuomo shall not serve as the alternate.

27. Prior to the resumption of inspection services, Respondent shall take all actions necessary to ensure that the HACCP Manager has: (i) completed a course of instruction and received certification in HACCP consistent with 9 C.F.R. 417.7; (ii) has completed training in regulatory requirements regarding SPS, SSOP, SRM, and *E.coli* sampling and testing procedures; and, (iii) provide documentation regarding compliance with this paragraph to the Director, EED. Any alternate of the HACCP Manager must have completed this training prior to assuming said duties.

28. Upon resumption of inspection services, and subject to verification by the FSIS District Manager and/or designees, Respondent shall:

(a) ensure that Joshua Cuomo's, Jeffrey Cuomo's and Barton Cuomo's involvement with Respondent is limited to those areas specified in paragraphs 23 thru 27.

(b) ensure that the HACCP Manager and/or alternate shall be available to FSIS program personnel whenever slaughter, processing or other inspected operations are being conducted; and,

(c) not conduct any operations requiring inspection service under the FMIA in the absence of the HACCP Manager.

29. Respondent may name a new President, HACCP Manager or their alternates only upon written request to, and subject to the written concurrence of, the Director, EED.

30. Respondent shall maintain documentation of compliance with paragraphs 23 through 29 for the duration of the Order and make such records available to FSIS personnel for review and/or copying immediately upon such request by FSIS.

Non-Intimidation and Interference Policy

31. Prior to the resumption of inspection services, and subject to verification by the FSIS District Manager and/or designees, Respondent shall:

(a) develop a written company policy and action plan to address measures that will be taken by plant management, before the resumption of inspection services and on a daily and on-going basis, to ensure that Respondent, its officers, employees, or agents do not intimidate, interfere with, assault, impede, or threaten FSIS personnel;

(b) said policy and action plan shall, at a minimum, include: (i) a statement of Respondent's commitment to ensure the safety and non interference with FSIS personnel; (ii) written guidelines prohibiting assaults, threats of assault, intimidation or interference with FSIS

personnel; (iii) preventive measures and assurances to be taken by plant management to preclude any acts of intimidation, assault, or interference of FSIS personnel; (iv) corrective actions to be implemented by plant management if instances are reported; (v) disciplinary actions and sanctions against individuals involved in reported incidents; and, (vi) training for all current and future managers and employees in the company policy and action plan; and

(c) provide a copy of its written company policy or action plan to the FSIS District Manager and/or designees.

32. Upon resumption of inspection services, and subject to verification by the FSIS District Manager and/or designees, Respondent shall:

(a) implement the company policy and action plan, as provided in paragraph 31;

(b) ensure that the company policy is permanently displayed in a prominent location;

and,

(c) require strict adherence to the company policy on the part of all current and future managers and employees and take and document corrective action, including disciplinary action, when necessary.

33. Respondent shall document and maintain written records of the implementation of the company policy and action plan for the duration of the Order, and make these records available to FSIS personnel for review and/or copying immediately upon such request by FSIS.

Management and Employee Training

34. Prior to the resumption of inspection services, and subject to verification by the FSIS District Manager and/or designees, Respondent shall:

(a) develop a training program for all current employees and management personnel and future hires to ensure that employees are trained in all aspects of food safety measures and regulatory requirements, including the requirements of the SPS, SSOP, HACCP, residue control, SRM removal and control, *E.coli* sampling and testing, recordkeeping procedures, and good manufacturing procedures relevant to each employee's position;

(b) said training program shall include, at a minimum, procedures to ensure that (i) employees and management personnel responsible for sanitation are trained in plant SSOP procedures and the SSOP regulations; (ii) employees and management personnel responsible for HACCP monitoring, verification, pre-shipment review, recordkeeping, or other HACCP procedures are trained in plant HACCP procedures and HACCP regulatory requirements; (iii) employees and management personnel responsible for sampling and testing or other aspects of the establishments *E.coli* control programs, whether required by the establishment's policies or FSIS regulations, are trained in appropriate sampling and testing programs and methods, and FSIS pathogen testing and sampling requirements and methodologies; (iv) employees and management personnel responsible for conducting monitoring and verification activities pertaining to the establishment's SRM program shall also be trained relative to appropriate monitoring, verification, corrective actions and recordkeeping procedures relevant to these programs; (v) all employees and managers shall be provided with training information that describes the roles and responsibilities of each responsible official, manager, supervisor and/or employee; (vi) all employees and managers shall be trained in company and FSIS policies and laws regarding interference and intimidation; and, (vii) all employees and managers shall be

provided with training information regarding the basis for and the terms and conditions of this Order; and,

(c) provide the Director, EED with documentation: (i) listing the names of management personnel and employees that will be trained prior to the resumption of inspection services; (ii) naming the individual and alternate responsible for the employee training; and (iii) showing that the trainers have completed a course of instruction in HACCP that complies with 9 C.F.R 417.7.

35. Upon the resumption of inspection services, and subject to verification by the FSIS District Manager and/or designees, Respondent shall:

(a) train and educate any new employee, consistent with the requirements of paragraph 34, within thirty (30) days of their employment; and,

(b) conduct annual training for all employees, current and new, consistent with the requirements of paragraph 34.

36. Respondent shall document and maintain written records of the implementation and completion of the initial and annual training for current and new employees for the duration of this Order, and make these records available to FSIS personnel for review and/or copying immediately upon such request by FSIS.

37. Respondent shall 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 available to FSIS personnel for review and/or copying immediately upon such request by FSIS.

38. Respondent shall change the individual(s) responsible for training and education of current and new employees only upon written concurrence of the Director, EED.

Third Party Audits

39. Respondent shall, upon resumption of inspection services, cause to be made, by a qualified, independent third-party, written audits of (a) Respondent's implementation, monitoring, and maintenance of its sanitation, SSOP, HACCP and other process control, sampling and testing, and other programs; (b) the effectiveness of Respondent's sanitation, SSOP, HACCP, and other process control, sampling and testing, and other programs to ensure food safety; (c) compliance with FSIS statutory and regulatory requirements; and, (d) compliance with the terms of this Order.

40. The audits shall be conducted, at least as frequently, as follows:

(a) the first audit shall be conducted within thirty (30) calendar days from the effective date of this Order; (b) subsequent audits shall be conducted every (90) calendar days thereafter for the year following the resumption of inspection services; and, (c) additional audits shall be conducted, thereafter, at each (180) calendar day interval for the duration of this Order.

41. The written audits shall include a report of findings and recommendations, if any, of the independent third-party.

42. Respondent shall prepare, for each audit conducted, a written response to the third-party's findings and recommendations. Respondent's written response shall identify: (a) any modifications to its SSOP, HACCP or other programs or plans; (b) any corrective actions implemented; (c) any other actions implemented or planned in response; and (d) supportable information for any decision by Respondent to not implement any audit recommendation.

43. Respondent shall make a copy of each third-party audit, a copy of Respondent's written response, and copies of any notes, interviews or other documents relative to the audit available to FSIS for review and/or copying within (20) days after each audit is completed.

44. Prior to the resumption of inspection services, Respondent shall name in writing, with the concurrence of the Director, EED, the individual(s) responsible for performing the audits. Said auditors must have completed a course of instruction in the application of HACCP, in accordance with 9 C.F.R. 417.7, and provide a copy of such certification to the Director, EED, prior to the resumption of inspection operations. Respondent may name a new independent third party, at any time, with the written concurrence of the Director, EED.

Recordkeeping

45. Prior to the resumption of inspection services, and subject to verification by the FSIS District Manager and/or designees, Respondent shall provide the Director, EED and/or designee(s) with a copy of all record keeping forms to be used by Respondent in the conduct of activities regulated by the FMIA.

46. Respondent shall immediately notify FSIS program personnel of any changes or modifications to its SSOP, HACCP or other systems, programs, or plans required by regulation or this Order, and all associated recordkeeping forms.

47. Respondent shall record and maintain complete and accurate written records of (a) all records required to be maintained by the FMIA and the regulations; (b) all records required to be maintained under applicable Federal, State, and local statutes; (c) all SPS, SSOP, HACCP, residue, SRM, and other systems, plans and records required by the FMIA, the regulations or this

Order; and, (d) all records, whether required by regulation, this Order, or otherwise, regarding the sampling or testing of products for pathogens and the results of such sampling or testing.

48. 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

49. Respondent, its officers, partners, employees, agents or affiliates shall not:

(a) be convicted of any felony or fraudulent act; (b) violate any section of the FMIA; (c) violate any Federal, State or local statute involving the preparation, sale, transportation, distribution or attempted distribution of any adulterated or misbranded meat, poultry or food product or article; (d) assault, intimidate, impede, threaten, or interfere with, or threaten to assault, intimidate, impede, or interfere with any USDA or FSIS employee(s) in the performance of his/her official duties under the FMIA; (e) supply labeling materials bearing Respondent's official mark for unauthorized use; or, (f) conduct any operations requiring federal inspection outside the official hours of operation without obtaining prior written approval from FSIS.

50. Respondent its officers, partners, employees, agents or affiliates shall:

(a) ensure that all manufactured and/or stored raw or processed meat or meat food products are properly marked, labeled, and packaged; and,

(b) fully and completely cooperate with any USDA or FSIS investigation, inquiry, review or examination of (i) Respondent's establishment, product or business records, (ii) Respondent's compliance with the FMIA and the regulations promulgated thereunder, or (iii) Respondent's compliance with this Order.

Enforcement Provisions

51. The Administrator, FSIS, may summarily withdraw federal inspection services from Respondent upon a determination by the Administrator that Respondent has committed an act in violation of or failed to comply with any requirement of paragraphs 4, 5, 7, 8, 10, 11, 13, 14, 16, 17, 19, 20, 21, 22, 25, 26, 28, 29, 30, 32, 33, 47, 48, 49, and 50 of this Order.

52. Respondent shall retain the right, after any summary withdrawal of inspection services, to request an expedited hearing, pursuant to the applicable rules of practice (7 C.F.R. Part 1, subpart H and 9 C.F.R. Part 500).

53. The provisions of this Order shall be applicable to any processing or other operations conducted under the Poultry Products Inspection Act (21 U.S.C. § 451 et. seq.), as appropriate.

Nothing in this Order shall preclude (a) any future criminal, civil, regulatory or administrative action authorized by law, regulation or otherwise, including, but not limited to any action under the FSIS Rules of Practice (9 C.F.R. Part 500) or (b) the referral of any matter to any agency for possible criminal, civil, or administrative proceedings.

If any provision of this Order is declared invalid, such declaration shall not affect the validity of any other provisions herein.

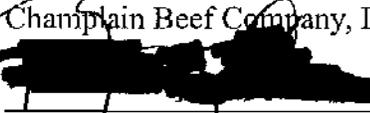
The provisions of this Order shall be applicable for a period of three (3) years from the effective date of this Order.

This Consent Decision and Order shall become effective upon issuance by the Administrative

Law Judge.


JEFFREY CUOMO
President

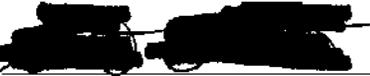
Champlain Beef Company, Inc.


BARTON CUOMO
Vice-President

Champlain Beef Company, Inc.


JOSHUA CUOMO
HACCP Manager

Champlain Beef Company, Inc.


ROBERT HIBBERT
Attorney for Respondent


SCOTT C. SAFIAN

Director, Evaluation & Enforcement Division
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Office of the General Counsel


KRISHNA RAMARAJU
Attorney for Complainant
U.S. Department of Agriculture
Office of the General Counsel

Issued this 9th day of May, 2006
at Washington, D.C.


Administrative Law Judge