

UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE

2017 FEB 14 PM 2:33

RECEIVED

In re:)	FMIA Docket No. 17-0220
)	
)	
Lebanese Butcher Slaughter House, Inc.,)	
)	
)	
Respondent)	Consent Decision and Order
)	

This proceeding was instituted under the Federal Meat Inspection Act ("FMIA"), as amended (21 U.S.C. § 601 *et seq.*) and the applicable Rules of Practice (7 C.F.R. § 1.130 *et seq.* and 9 C.F.R. § 500.1 *et seq.*), to withdraw Federal inspection services from Lebanese Butcher Slaughter House, Inc., (hereinafter referred to as Respondent). 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), on February 13, 2017.

The parties have agreed that this proceeding should be terminated by entry of this Consent Decision and Order (Order) set forth below, pursuant to the consent decision provisions of the Rules of Practice (7 C.F.R. § 1.138).

The Respondent admits the findings of jurisdictional 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 and its owners, officers, directors, partners, successors, assigns, and affiliates waive any claim against the 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. The Respondent consents

and agrees, for the purpose of settling this proceeding and for such purpose only; to the entry of this decision and that this decision is the final resolution of all facts and events that gave rise to this proceeding.

Findings of Fact

1. Respondent is now, and was at all times material herein, a corporation organized and existing under the laws of the Commonwealth of Virginia, operating a slaughtering and meat processing facility at 241 West Shirley Road, Warrenton, Virginia 20186.
2. Respondent was at all times material herein, a recipient of Federal inspection services at its place of business in Warrenton, Virginia, and designated as official Establishment Number M31959.
3. From April 2015 to May 2016, the Food Safety and Inspection Service, ("FSIS"), United States Department of Agriculture, issued four Notices of Suspension letters to respondent and suspended inspection services for failing to effectively implement and maintain the required Sanitation Standard Operating Procedures ("SSOP"), Sanitation Performance Standards ("SPS") and Hazard Analysis Critical Control Point ("HACCP") plans in accordance with 9 C.F.R. Parts 416 and 417. The Notice of Suspension letters were issued on April 1, 2015, April 22, 2015, July 10, 2015 and May 19th, 2016. FSIS also suspended the establishment four times prior to April 1, 2015. FSIS repeated found that the establishment had insanitary conditions throughout the establishment and produced and shipped adulterated and misbranded product without the benefit of federal inspection and a written HACCP plan.
4. FSIS has also documented instances of failing to slaughter and handle animals humanely, most recently on May 17, 2016 in violation of 21 U.S.C. § 603(b) and 9 C.F.R. Part 313.

Conclusion

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

Order

Federal meat inspection services under Title I of the FMIA are withdrawn from Respondent, its owners, officers, directors, partners, successors, affiliates and assigns, directly or through any business or other device, for a period of three (3) years, beginning on the effective date of this Order; Provided, however, said withdrawal of inspection services shall be held in abeyance, and Federal meat inspection services shall be provided to Respondent, pursuant to a conditional grant of inspection, for so long as the statutory and regulatory requirements for applicable inspection services and all terms and conditions of this Order set forth below are met and maintained.

Conditions

1. Prior to the resumption of inspection services, pursuant to this Order, Respondent shall update any new information in its' Grant of Inspection by submitting a new Application for Inspection (FSIS Form 5200-2) reflecting required information and any changes of its business operations.
2. 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 § 303, 307, 309, 310, 313, 416, 417, and 418, upon a review and examination of:
 - a. Respondent's Sanitation Performance Standards (SPS), Sanitation Standard Operating Procedures (SSOPs), Hazard Analysis and Critical Control Point

(HACCP) system, Recall of Meat Products Plan, *E. coli* Biotype sampling and testing programs, Pest Management Program, Planned Improvement Program (PIP), other written sanitation, process controls, recordkeeping procedures, corrective actions, and sampling or testing programs required by regulation or this Order;

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

3. During the period of this Order, within its discretion, FSIS may conduct examinations of records, Intensified Verification Testing (IVT), and other verification and monitoring activities to ensure the Respondent's compliance, implementation, and the effectiveness of its SPS, SSOP, HACCP, and other systems, plans, and records required by the FMIA, the regulations, and this Order.

Sanitation Performance Standards (SPS)

4. Prior to 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, and to preclude harborage and breeding of pests; (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 that are prepared, packed, and stored at Respondent's facility are not adulterated or misbranded;

- b. Ensure that its SPS includes specific, written instructions addressing, at a minimum, the following procedures: (i) proper handling, storage, denaturing, and disposal of inedible products; (ii) re-conditioning of contaminated product; and (iii) employee hygienic practices;
- c. Address specific process controls and procedures for *E.coli* Biotype I; and
- d. 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 1(b) of this Order.

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

- a. Operate and maintain, at all times, its establishment, including its interior 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 (9 C.F.R. § 416.1 to § 416.5), and to preclude harborage and breeding of pests;
- b. Ensure that meat and meat food products are not adulterated;
- c. Assess its written SPS 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
- d. Implement and maintain the SPS written procedures for the duration of this Order.

Planned Improvement Program

6. 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.

7. Upon the resumption of inspection services, and subject to verification by FSIS, Respondent shall implement and maintain their PIP as required in 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.

Pest Management Program

8. Prior to the resumption of Federal inspection services, and subject to verification by FSIS, Respondent shall develop a written pest management program, to be implemented and maintained by an independent pest control service, to prevent the harborage and breeding of pests within the facility and on its grounds consistent with 9 C.F.R. § 416.2(a) and (b) to ensure that:

- a. The pest control service reviews and services Respondent's facility and grounds at least weekly; and
- b. The pest control service provides Respondents written reports detailing its findings and recommendations of its review.

9. Upon resumption of inspection service, and subject to verification by FSIS, Respondent shall implement and maintain their pest management program in a manner sufficient to prevent the creation of insanitary conditions and practices, to prevent the harborage and breeding of pests, and to ensure that meat products stored, prepared, and packed are not contaminated or adulterated.

Sanitation Standard Operating Procedures (SSOPs)

10. 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; and (ii) complex equipment use and methods of cleaning. These written instructions shall specify the frequency of each aforementioned procedure.

11. 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 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

12. 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 meat 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 the 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 *E. coli* as hazards in the process; and (iii) measures to eliminate or reduce and control the level of *E. coli* to prevent contamination of Respondent's finished product, food contact surfaces, and non-contact environmental surfaces; 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.

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

- a. Implement, validate, 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 this Order;
- b. Conduct initial in-plant validation during the first ninety (90) days of resumed operations, in accordance with 9 C.F.R. §§ 304.3(b) and 417.4;
- c. 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
- d. 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.

Establishment Management and Personnel