

U.S. DEPARTMENT OF AGRICULTURE

SECRETARY OF AGRICULTURE

In re: ) FMIA Docket No. 09-0188  
) PPIA Docket No. 09-0188  
Hinsdale Farms, Ltd. )  
d/b/a Burr Ridge Valley )  
d/b/a Mid America Packing )  
d/b/a Bristol Valley Foods )  
)  
Respondent ) CONSENT DECISION

This proceeding was instituted under the Federal Meat Inspection Act (FMIA), as amended (21 U.S.C. §§ 601 *et seq.*) and the Poultry Products Inspection Act (PPIA), as amended (21 U.S.C. § 451 *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 respondent. This proceeding was commenced by a complaint filed on September 9, 2009, by the Administrator, Food Safety and Inspection Service (FSIS), United States Department of Agriculture (USDA), who is responsible for the administration of Federal inspection services for both meat and poultry. 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 and 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 is now, and at all times material herein was, a business organized and under the laws of the State of Illinois, operating a meat and poultry processing operation at its establishment located at 605 Kesco Drive, Bristol, Indiana, 46507-8980.

(1) On February 26, 2009, in association with a Food Safety Assessment (FSA), FSIS conducted Routine Risk- Based *Listeria monocytogenes* (“*Lm*”) sampling at Respondent’s establishment. On March 4 and 5, 2009, results of the analyses of the samples collected were reported by the laboratory and included five (5) confirmed *Lm* positive findings. These positive were for one (1) poultry and pork corn dog product, two (2) product contact surfaces, and two (2) non-contact surfaces.

(2) On March 9, 2009, based on the above mentioned *Lm* finding, a Notice of Intended Enforcement Action (“NOIE”) was issued to the establishment, due to a determination that respondent’s Hazard Analysis and Critical Control Point (“HACCP”) system for the production of fully cooked, not shelf stable products was inadequate because it resulted in the production of adulterated product and failed to control *Lm* as required by 9 C.F.R. § 430.4.

(3) Based upon several written and oral responses by respondent, on April 17, 2009, FSIS issued a Notice of Deferral, deferring decision regarding enforcement action pending verification by inspection personnel that proposed corrective actions had been effectively implemented.

(4) During the NOIE deferral period of April 17- May 8, 2009, the respondent sampled and received *Lm* positive findings for two (2) piggies n’ pancakes, two (2) pork corn dogs, one (1) poultry and pork corn dog product, (1) veggie dog, and two (2) mini corn dog products.

(5) On May 8, 2009, respondent was notified of FSIS' decision to issue a Notice of Suspension ("NOS") whereby FSIS would withhold the marks of inspection and suspend the assignment of inspectors to the facility. The NOS was based on the respondent's failure to effectively implement and maintain sanitary conditions and effective process controls as required by 9 C.F.R. 416, 417 and 430.4. Confirmed positive *Lm* results in products provided evidence that the establishment's corrective and preventive actions had not been effective in preventing *Lm* from migrating to finished products.

(6) Based upon written responses and telephone conversations, on May 29, 2009, FSIS issued a Notice of Suspension Held in Abeyance which allowed the establishment to resume operations. Respondent also was informed at that time that FSIS would begin immediate verification of the corrective actions proffered by the establishment.

(7) On May 30, 2009, a poultry mini corn dog was analyzed and found positive for *Listeria* species. On June 5, 2009, a confirmed positive for *Lm* was received for a pancake and sausage product.

(8) On June 7, 2009, a written Notice of Reinstatement of Suspension was issued to respondent based on the respondent's failure to effectively implement and maintain sanitary conditions and effective process controls as required by 9 C.F.R. 416, 417 and 430.4. Confirmed positive *Lm* and *Listeria* species results in products provided evidence that the establishment's corrective and preventive actions had not been effective in preventing *Lm* from migrating to finished products.

(9) Based upon proffered corrective actions, on June 15, 2009, FSIS issued a Notice of Suspension Held in Abeyance, which allowed the establishment to once again resume operations,

while FSIS once again began immediate verification of the corrective actions proffered.

(10) During this period of abeyance, from June 15, 2009 to July 15, 2009, the respondent reported three (3) positives for *Listeria* species for food contact surfaces.

(11) Following the positives for *Listeria* species, FSIS conducted intensive verification testing. The intensive verification testing conducted on July 28, 2009, resulted in confirmed positives for *Lm* on food contact surfaces and in the environment.

(12) Based upon the *Lm* positives from the July 28, 2009 testing, FSIS issued a Notice of Reinstatement of Suspension on August 6, 2009.

### **Conclusions**

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

### **Order**

Federal meat and poultry inspection services under the FMIA and PPIA are withdrawn from respondent and 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:

1. 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 416, 417, and 430, upon a review and

examination of (a) respondent's Sanitation Performance Standards (SPS), Sanitation Standard Operating Procedures (SSOP), Hazard Analysis and Critical Control Point (HACCP) system, *Listeria monocytogenes* (*Lm*) sampling and testing program, and other written sanitation, process controls, and sampling or testing programs; and (b) the physical and sanitary conditions of respondent's establishment.

2. 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 respondent's compliance, implementation, and the effectiveness of its SPS, SSOP, HACCP, *Lm* sampling and testing program and other systems, plans, and records required by the FMIA, PPIA, the regulations, and this Order.

#### **Sanitation Performance Standards Provisions**

3. Prior to the resumption of inspection services, and subject to verification by FSIS, respondent shall 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 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, and poultry and poultry products, prepared, stored, and packed are not adulterated.

4. 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 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, and poultry and poultry products, are not adulterated; and

(b) assess its written SPS procedures to evaluate their effectiveness, and make necessary improvements, corrective actions, repairs to the establishment buildings, structures, rooms, and compartments to ensure that that they are kept in good repair, and sufficient size to allow for processing, handling, and storage of product in a manner to ensure and maintain sanitary conditions.

**Sanitation Standard Operating Procedures Provisions**

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

(a) develop written sanitation standard operating procedures (SSOP) to describe the 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; and

(b) address specific procedures within the 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; and (v) employee hygienic practices.

6. 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. Part 416 to ensure sanitary conditions and prevent product adulteration; and

(b) implement corrective and preventative actions as required by 9 C.F.R. § 416.15 and evaluate the effectiveness of its SSOP, 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 Provisions**

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

(a) reassess its HACCP system to describe each system of process controls and procedures that respondent will implement and utilize on a daily and on-going basis to control and prevent the introduction of food safety hazards in their meat or poultry products. These plans shall address specific process controls and procedures within respondent's HACCP system(s) (i.e. *Listeria monocytogenes* in post lethality process steps), 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, or elimination of such hazards, or their reduction to undetectable levels; (ii) measures to address *L. monocytogenes* as a hazard reasonably likely to occur; and (iii) measures to eliminate or reduce and control the level of *L. monocytogenes* to prevent

contamination of respondent's finished Ready-to-Eat (RTE) product, food contact surfaces, and non-contact environmental surfaces; and

(b) include all decision making documents for the plan(s), including its hazard analysis or analyses, validation protocols, and all parameters used in said protocols, and data to support the food safety system(s).

8. Upon resumption of inspection services, and subject to the verification of FSIS, respondent shall:

(a) implement, validate, and maintain on a daily and ongoing basis the HACCP system(s) and plan(s), as provided in this Order, in accordance with the requirements of 9 C.F.R. Part 417;

(b) implement timely and appropriate corrective and preventive actions and reassess and modify its HACCP systems 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 assessment, validation, and testing of adequacy of the critical control points, critical limits, monitoring, and record-keeping procedures, and corrective actions set forth in the HACCP system(s) and plan(s), to ensure that Respondent's food safety system remains validated over time, as required by 9 C.F.R. Part 417.

**Listeria monocytogenes Sampling and Testing Program Provisions**

9. Prior to the resumption of inspection services, and subject to verification by FSIS, respondent shall develop a written *L. monocytogenes* sampling and testing program

for its RTE products in accordance with 9 C.F.R. Part 430 and, at a minimum, shall include:

- (a) initial start-up production sampling and testing;
- (b) routine production sampling and testing;
- (c) intensified production sampling and testing;
- (d) alternative 2 for the production of post-lethality exposed RTE product;
- (e) testing for product, food contact surfaces, incidental contact surfaces, and non-food contact surfaces;
- (f) procedures to notify FSIS of all testing and sampling results, including presumptive positives, immediately upon receipt of samples results; and
- (g) designate in writing, subject to the concurrence of the FSIS, one full time person and one alternate who shall be responsible for conducting sampling or other activities under Respondent's written *L. monocytogenes* program and 9 C.F.R. Part 430.

Initial Start-up Production Sampling

10. Upon resumption of inspection services, and subject to verification by FSIS, respondent shall implement a ten (10) consecutive production days initial start-up production period intensified sampling and testing production schedule, to include:

- (a) full establishment operations and production of RTE products;
- (b) intensified testing for product, food contact surfaces, incidental contact surfaces, and non food contact surfaces during the full ten (10) consecutive production days initial start-up production period to ensure no positive *L. monocytogenes* findings;
- (c) the implementation of hold and test procedures for all RTE products produced until negative results are received for ten (10) consecutive production days;

(d) testing and sampling for *L. monocytogenes* at the following frequency: (i) For “Zone 1 (food contact surfaces)” random sampling and testing for ten (10) sites per shift for three common lines for a total of twenty (20) sites per common line per production day; (ii) For “Zone 2 (incidental contact surfaces)” random sampling and testing for five (5) sites per shift for three common lines for a total of ten (10) sites per common line per production day; and (iii) For “Zone 3 (non-food contact surfaces)” random sampling and testing for five (5) sites per shift for a total of ten (10) samples for each three common lines per production day; and (iv) Sixty (60) random samples for finished product from each common line per two shift production day; and

(e) holding procedures for all products produced during the full ten (10) consecutive production days initial start-up production period until all negative results are received for all ten (10) consecutive production days.

11. In the event of any positive *L. monocytogenes* test result for product or food contact surfaces at any time during the ten (10) consecutive production day initial start-up production period, respondent shall:

- (a) immediately suspend operations;
- (b) destroy all products produced and held during any ten (10) consecutive production days initial start-up period;
- (c) take necessary corrective and preventative measures to address the *L. monocytogenes* positive finding;
- (d) reevaluate its *L. monocytogenes*, SSOP, HACCP, and other programs or plans to determine if modifications need to be made to address preventative and corrective measures;

(e) document appropriate corrective and preventive actions;

(f) retrain employees in the *L. monocytogenes* program or other programs or procedures if in respondent's reassessment it is determined that the contamination was due to employee practices or actions;

(g) document any employee training; and

(h) submit Respondent's proposed corrective actions, preventative measures, and any changes to its SSOP, HACCP, *Lm* sampling and testing program, or other systems, programs, or plans to FSIS for review, verification, and concurrence prior to resumption of operations.

12. In the event of any positive *L. monocytogenes* test results for incidental contact surfaces or non-food contact surfaces, respondent shall:

(a) submit its proposed corrective actions, preventative measures, and any changes to its SSOP, HACCP, *Lm* sampling and testing program, or other systems, programs or plans to FSIS for review, verification, and concurrence; and

(b) continue to hold all product produced until the successful completion of the entire initial start-up period, negative results are received and all information regarding all testing has been provided to FSIS for review, verification, and concurrence. FSIS will then make a determination concerning the disposition of the product based upon the information provided by the Respondent regarding the sanitary conditions of the facility and the wholesomeness of the product.

13. Respondent shall, in the event of any positive *L. monocytogenes* test results as described in paragraphs 11 and 12 of this Order re-start its ten (10) consecutive production day initial start-up production period intensified sampling and testing program

as provided in paragraph 10 of this Order until all negative results are received for all ten (10) consecutive production days.

14. Respondent may in the event of the successful completion of the initial start-up period for all ten (10) consecutive days of production: (i) ship all RTE products produced during those ten (10) consecutive production days initial start-up production; and (ii) continue operations, testing, and sampling for *L. monocytogenes* under its routine production sampling program as provided in paragraph 16 of this Order.

Routine Production Sampling

16. Respondent's routine production sampling and testing shall, at a minimum, include:

(a) testing and sampling frequency as follows: (i) For "Zone 1 (food contact surfaces)" random sampling and testing for five (5) sites for each common line on a daily basis to be taken at least three (3) hours into production; (ii) For "Zone 2 (incidental contact surfaces)" random sampling and testing for at least five (5) sites for each common line on a weekly basis; and (iii) For "Zone 3 (non-food contact surfaces)" random sampling and testing for a minimum of fifteen (15) sites in RTE area on a daily basis; and (iv) one random product sample per each common line per shift per week.

(b) the size and location of the sites that will be sampled;

(c) an explanation of why the testing frequency is sufficient to ensure that effective control of *L. monocytogenes*, or indicator organism, is maintained;

(d) random testing and sampling for all facility sites and production days that will give an equal opportunity of selection for all sites and times;

(e) hold and test procedures for all products produced until negative results for

Zone 1 (food contact surfaces) and product are received; and

(f) testing for *L. monocytogenes*, in Zones 1 thru 3 and for product samples.

17. In the event of any positive *L. monocytogenes* test result for product or food contact surfaces, respondent shall voluntarily and immediately suspend RTE operations, and prior to the resumption of operations:

(a) take necessary corrective and preventative measures to address the *L. monocytogenes* positive finding;

(b) reevaluate its *L. monocytogenes*, SSOP, HACCP and other programs or plans to determine if modifications need to be made to address preventative and corrective measures;

(c) document appropriate corrective and preventive actions;

(d) retrain employees in the *L. monocytogenes* program if in respondent's reassessment it is determined that the contamination was due to employee practice or actions;

(e) document any employee training; and

(f) destroy product or present a written request to FSIS for product rework or reconditioning that includes a validated lethality treatment for FSIS review, verification, and concurrence;

(g) submit proposed corrective actions, preventative measures, and any changes to its SSOP, HACCP, *Lm* sampling and testing program, or other programs or plans to FSIS for review, verification, and concurrence.

18. In the event of any positive *L. monocytogenes* test results for incidental contact surfaces or non-food contact surfaces, respondent shall:

(a) submit its proposed corrective actions, preventative measures, and any changes to its SSOP, HACCP, *Lm* sampling and testing program or other programs or plans to FSIS for review and verification, and concurrence:

(b) After corrective actions, conduct three (3) consecutive re-tests of the positive site;

(c) Determine the location of the five (5) nearest food contact sites and test these sites in conjunction with any testing of the positive site in (b) above; and

(d) If any incidental or non-food contact surface re-test in (b) or any food contact sites in (c) above are positive, Respondent shall immediately implement its intensified production sampling program, as provided in paragraph 20 of this Order.

19. Respondent shall in the event of any positive *L. monocytogenes* test results as described in paragraph 17 of this Order, implement its intensified production sampling program, as provided in paragraph 20 of this Order.

*Intensified Production Sampling*

20. Respondent's intensified production sampling and testing shall include, at minimum:

(a) intensified testing for product, food contact surfaces, incidental contact surfaces, and non food contact surfaces for one "work week" (a "work week" shall mean all production days, Sunday through Saturday), and the implementation of hold and test procedures for all RTE products produced until negative results are received to ensure no positive *L. monocytogenes* findings;

(b) testing and sampling frequency as follows: (i) For "Zone 1 (food contact surfaces)" random sampling and testing for ten (10) sites per shift for three common lines

for a total of twenty (20) sites per common line per production day; (ii) For “Zone 2 (incidental contact surfaces)” random sampling and testing for five (5) sites per shift for three common lines for a total of ten (10) sites per common line per production day; and (iii) For “Zone 3 (non-food contact surfaces)” random sampling and testing for five (5) sites per shift for a total of ten (10) samples for each three common lines per production day; and (iv) Sixty (60) random samples for finished product from each common line per day;

(c) random testing and sampling for all facility sites along with the selection of any facility site(s) that had previously tested positive; and

(d) testing for *L. monocytogenes*, in Zones 1 thru 3 and for product samples.

21. In the event of any positive *L. monocytogenes* test results for product or food contact surfaces, respondent shall voluntarily and immediately suspend RTE operations by stopping production in the raw area and ending production when remaining products in process have been packaged, and prior to the resumption of operations:

(a) take necessary corrective and preventative measures to address the *L. monocytogenes* positive finding;

(b) reevaluate its *L. monocytogenes*, SSOP, and HACCP and other programs or plans to determine if modifications need to be made to address preventative and corrective measures;

(c) document appropriate corrective and preventive actions;

(d) retrain employees in the *L. monocytogenes* program if in respondent’s reassessment it is determined that the contamination was due to employee practice or actions;

- (e) document any employee training; and
- (f) destroy product or present a written request to FSIS for product rework or reconditioning with a validated lethality treatment for FSIS review, verification, and concurrence;
- (g) submit its proposed corrective actions, preventative measures, and any changes to its SSOP, HACCP, *Lm* sampling and testing program or other systems, programs or plans to FSIS for review, verification and concurrence; and

22 In the event of any positive *L. monocytogenes* test results for incidental contact surfaces or non-food contact surfaces, Respondent shall:

- (a) submit its proposed corrective actions, preventative measures, and any changes to its SSOP, HACCP, *Lm* sampling and testing program or other systems, programs or plans to FSIS for review, verification, and concurrence.
- (b) present a written request to FSIS for the disposition of the product. FSIS will then make a determination concerning the disposition of the product produced during the intensified testing period based upon the information provided by the Respondent regarding the sanitary conditions of the facility and the wholesomeness of the product.

23. Respondent shall, in the event of any positive *L. monocytogenes* test results as described in paragraphs 21 or 22 of this Order, re-start its intensified production sampling as provided in paragraph 20 of this Order until negative results are received for one work week of production days.

24. Respondent may continue operations, testing, and sampling for *L. monocytogenes* under its routine production sampling program as provided in paragraphs

16 to 19 of this Order, upon receiving all negative test results for product and Zone 1 (food contact surfaces) for one work week of production days.

### **Laboratory Methods**

25. Respondent shall have all samples tested at its contract laboratory until such time that they can demonstrate to FSIS through companion sampling verification data that respondent's in-house testing protocols are equivalent to, or as effective as, the contract laboratory in identifying *L. monocytogenes*. Respondent shall submit such information to FSIS in writing for review, verifications and concurrence.

26. Respondent shall document and maintain sample laboratory results and records regarding the implementation and monitoring of its *L. monocytogenes* program as provided in this Order, including corrective actions, regulatory records, and preventive measures, in accordance with 9 C.F.R. § 417.5, and make these plant records available to FSIS personnel for review and/or copying immediately upon request.

### **Employee Training Provisions**

27. Prior to the resumption and subject to the verification of FSIS, respondent shall develop a training program for all current employees 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, *L. monocytogenes* sampling and testing, recordkeeping procedures, and Good Manufacturing Practices (GMP's), relevant to each employee's position.

28. Within forty five (45) calendar days of the effective date of this Order and subject to verification by FSIS, respondent shall train all current employees consistent with the requirements of paragraph 27 of this Order.

29. Respondent shall train and educate any new employee(s), consistent with the requirements of this Order, within thirty (30) days of employment.

30. Respondent shall conduct annual training for all employees, management personnel current and new, consistent with the requirements of this Order.

31. Respondent shall document and maintain training and education materials, training records, test results, and other materials for all training required by paragraphs 27 thru 30 of this Order and make these records available to FSIS personnel for review and/or copying immediately upon request.

### **Third Party Audit Provisions**

32. 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, *Lm* sampling and testing, and other programs;

(b) the effectiveness of respondent's sanitation, SSOP, HACCP, and other process control, *Lm* sampling and testing, and other programs to ensure food safety;

(c) compliance with FSIS statutory and regulatory requirements,

(d) compliance with the terms of this Order; and

(e) any findings and recommendations of the independent third-party.

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

(a) the first audit shall be conducted within ninety (90) calendar days from the effective date of this Order;

(b) subsequent audits shall be conducted every (180) calendar days thereafter for the duration of the Order.

34. 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 its SSOP, HACCP, *Lm*, 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.

35. Respondent shall submit a copy of each third-party audit, a copy of respondent's written response, or other documents relative to the audit to the Director of Evaluation and Enforcement Division (hereinafter Director, EED) for review and concurrence within (30) calendar days after each audit is completed.

#### **Recordkeeping Provisions**

36. Respondent shall maintain full, complete, and accurate written records of (a) all records required to be maintained by the FMIA, PPIA, and the regulations; (b) all records required to be maintained under applicable Federal, State and local statutes; and (c) all SPS, SSOP, HACCP, *Lm* sampling and testing and other systems, plans and records required by the FMIA, the regulations, and this Order.

37. Respondent shall notify the FSIS of any changes or modifications to its SSOP, HACCP, *Lm* sampling and testing program, or other systems, programs or plans, and all associated recordkeeping forms as required by the regulations or this Order.

#### **General Compliance Provisions**

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

(a) violate any section of the FMIA, the PPIA, or State or local statutes involving the preparation, sale, transportation or attempted distribution of any adulterated or misbranded meat or poultry products; or

(b) commit any felony or fraudulent criminal act that results in a conviction.

#### **Enforcement Provisions**

39. The Administrator, FSIS, may summarily withdraw inspection services upon a determination by the Director EED, or his or her designee, that one or more conditions set forth

in paragraphs 1 through 38 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 concerning any violation alleged as the basis for a summary withdrawal of inspection services. Nothing contained in these provisions prevents the right of respondents to appeal the decision of an FSIS employee to his/her immediate supervisor pursuant to 9 C.F.R. §306.5 or §381.35.

40. 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.

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

The provisions of this Order shall be applicable for a period of three (3) years from the effective date of this Order and shall become effective upon issuance by the Administrative Law Judge

HINSDALE FARMS, Ltd  
Respondent Corporation

BY:

  
\_\_\_\_\_  
Milton C. Smith  
President

  
\_\_\_\_\_  
Philip M. Smith  
Vice President

  
\_\_\_\_\_  
Scott C. Safian  
Director, Evaluation & Enforcement Division  
Food Safety and Inspection Service



Sean M. Smith  
Director of Operations

U.S. Department of Agriculture



Carlyne S. Cockrum  
Attorney for Complainant  
U.S. Department of Agriculture  
Office of the General Counsel



Dennis R. Johnson  
Attorney for Respondents

Issued this 12<sup>th</sup> day of Oct, 2009  
at Washington, D.C.



Administrative Law Judge