



United States
Department of
Agriculture

Food Safety
and Inspection
Service

Field
Operations

Philadelphia District
Mellon Independence Center
701 Market Street, Suite 4100-A
Philadelphia, PA 19106

April 22, 2016

**ORIGINAL VIA UPS NEXT DAY AIR –
DELIVERY CONFIRMATION REQUESTED**

Mr. Elliot Keller, General Manager
JBS Souderton, Inc. (Est. 01311)
249 Allentown Road
Souderton, PA 18964

NOTICE OF INTENDED ENFORCEMENT

Dear Mr. Keller,

This letter confirms verbal notification provided to you by Dr. Jaspreet Gill, Deputy District Manager (DDM), at approximately 3:55 P.M. on April 21, 2016, of the Food Safety and Inspection Service's (FSIS) intent to suspend the assignment of Inspection Program Personnel (IPP) for the Slaughter Hazard Analysis and Critical Control Point (HACCP) process at **JBS Souderton, Inc. (Est. 01311)**, located in Souderton, PA. FSIS is issuing this notification in accordance with the Rules of Practice, Title 9 of the Code of Federal Regulations (9 CFR) Part 500.3(b).

Background/Authority

The Federal Meat Inspection Act (FMIA) [21 U.S.C. 603 sec. 3. (b)] states, "for the purpose of preventing the inhumane slaughtering of livestock, the Secretary shall cause to be made, by inspectors appointed for that purpose, an examination and inspection of the method by which cattle, sheep, swine, goats, horses, mules, or other equines are slaughtered and handled in connection with slaughter in the slaughtering establishments inspected under this Act. The Secretary may refuse to provide inspection to a new slaughtering establishment or may cause inspection to be temporarily suspended at a slaughtering establishment if the Secretary finds that any cattle, sheep, swine, goats, horses, mules, or other equines have been slaughtered or handled in connection with slaughter at such establishment by any method not in accordance with the act of August 27, 1958 (72 Stat. 862; 7 U.S.C. 1901-1906) until the establishment furnishes assurances satisfactory to the Secretary that all slaughtering and handling in connection with slaughter of livestock shall be in accordance with such a method." In addition, under prohibited acts, 21 U.S.C. 610 sec 10 (b), "No person, firm or corporation shall, with the respect to any cattle, sheep, swine, goats, horses, mules or other equines, or any carcasses, parts of carcasses, meat or meat food products of any such animals slaughter or handle in connection with slaughter any such animals."

Under the authorities of the FMIA, FSIS has prescribed rules and regulations required for establishments producing meat products, including the requirements pertaining to Sanitation Performance Standards (SPS), Sanitation Standard Operating Procedures (SSOP), Hazard

Analysis and Critical Control Point (HACCP) 9 CFR Parts 416, 417, and other matters. FSIS has also developed Rules of Practice regarding the enforcement action that it may take and includes procedures for taking a withholding action and/or suspension, with or without prior notification, and for filing a complaint to withdraw a Grant of Inspection.

7 U. S. C. 1901

Humane Methods of Slaughtering Act 7 USC 1901 states, “The Congress finds that the use of humane methods in the slaughter of livestock prevents needless suffering; results in safer and better working conditions for persons engaged in the slaughtering industry; brings about improvement of products and economies in slaughtering operations; and produces other benefits for producers, processors, and consumers which tend to expedite an orderly flow of livestock and livestock products in interstate and foreign commerce. It is therefore declared to be the policy of the United States that the slaughtering of livestock and the handling of livestock in connection with slaughter shall be carried out only by humane methods.”

7 U. S. C. 1902

The Humane Methods of Slaughtering Act 7 USC 1902 states “No method of slaughtering or handling in connection with slaughtering shall be deemed to comply with the public policy of the United States unless it is humane.”

When an egregious situation exists, FSIS can refuse to render inspection and indefinitely withdraw inspection from an establishment provided the establishment is afforded the right to an administrative hearing.

Under the authority of the above Acts, FSIS has prescribed rules and regulations required for establishments producing meat and poultry products, including the requirements pertaining to Humane Slaughter of Livestock, as required by 9 CFR 313, and other matters.

Findings/Basis for Action

At 2:17 P.M., on April 21, 2016, a Consumer Safety Inspector (CSI) at JBS-Souderton observed a truck driver drive three cattle upon and over a down dairy cow on the second level of a truck during unloading of the truck. Establishment employees, who had come to the unloading dock to euthanize the dairy cow, observed this incident and did not stop the unloading. The CSI stopped the unloading and instructed the Establishment employees to euthanize the down dairy cow, which they did. A US Reject/Retain tag numbered B42202616 was applied to the gate leading to the knocking box. A US Reject/Retain tag numbered B39046907 and B42202602 were applied to the two truck unloading gates.

For handling of animals, 9 CFR 313.30 states the driving of livestock from the unloading ramps to the holding pens and from the holding pens to the stunning area shall be done with a minimum of excitement and discomfort to the animals.

Because the Establishment has a Robust Systematic Approach, with ongoing monitoring, and a successful Humane Handling recent history, at the recommendation of the Supervisory Public Health Veterinarian (SPHV), the District Office decided to issue a Notice of Intended Enforcement in lieu of a Notice of Suspension. At 3:55 P.M., establishment management was informed by phone that operations could resume.

Please provide this office with a written response concerning this NOIE within three (3) business days from the date of your receipt of this letter, by addressing the following:

- Explain the specific reasons why the event occurred.
- Describe the specific actions taken to eliminate the cause of the incident.
- Describe specific planned actions that you will take to prevent future reoccurrences.

Provide associated records that include monitoring and verification activities your establishment will use to ensure that changes are effectively implemented. We will determine further action, if any, based on your response.

If you have any questions regarding this matter, please feel free to contact (b) (6) (b) (6), via e-mail at (b) (6) @fsis.usda.gov or phone (b) (6) (b) (6)

Sincerely,



Susan Scarcia
District Manager
Philadelphia District Office

Cc:

FSIS - FO/Quarterly Enforcement Report

Dr. Jerry Elliott, Director, CID, FSIS, OIEA, Washington, DC

Mr. James Borda, RD, FSIS, OIEA, Philadelphia, PA

Ms. Susan G. Scarcia, DM, FSIS, OFO, Philadelphia District Office

Mr. Michael Osifat, DDM, FSIS, OFO, Philadelphia District Office

Dr. Jaspreet Gill, DDM, FSIS, OFO, Philadelphia District Office

Mr. Joseph Schein, DDM, FSIS, OFO, Philadelphia District Office

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Official Files

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