



Food Safety and
Inspection Service

January 27, 2020

Office of Field Operations

**ORIGINAL VIA FED EX NEXT DAY AIR –
DELIVERY CONFIRMATION REQUESTED**

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

Mr. Andrew Pudliner, President
Pudliner Packing (Est. 4999)
167 Norton Road
Johnstown, PA 15906

REINSTATEMENT OF SUSPENSION

Dear Mr. Pudliner,

This letter confirms verbal notification provided to Mr. Donnie Pudliner, acting manager, by Mr. Michael Osifat, Deputy District Manager (DDM), at approximately 1015 hours on January 27, 2020, of the Food Safety and Inspection Service's (FSIS) decision to suspend the assignment of Inspection Program Personnel (IPP) for all Slaughter Hazard Analysis and Critical Control Point (HACCP) processes at **Pudliner Packing (Est. 4999)**, located in Johnstown, 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).

Findings/Basis for Action

On January 27, 2020, at approximately 0835 hours, the Consumer Safety Inspector (CSI) informed the Supervisory Public Health Veterinarian (SPHV) of an egregious humane handling incident at Pudliner Packing, Est. 4999. Establishment personnel stunned a Holstein dairy cow in the stunning area with a firearm, then proceeded to winch it into the area to be shackled and hoisted. While the bovine was hanging on the rail, the CSI was able to determine that the animal was not insensible as it was vocalizing loudly and looking around. The establishment employee ignored the vocalization and continued to hang the bovine, then made the bleeding cut on a conscious animal. Shortly after the bleeding cut, the animal lost sensibility. After the bovine was skinned out, three holes were observed in the cranium. A regulatory control action was taken with USDA Retain/Reject tag# B37530382 being applied to the stunning chute. The establishment is currently under a Reinstatement of Suspension held in Abeyance (ROSHIA) for a Reinstatement of Suspension (ROS) that occurred on June 26, 2019. The establishment does not have a Robust Systematic Approach to Humane Handling.

For firearm stunning, Regulations 9 CFR Parts 313.16(a)(3) states that “Immediately after the firearm is discharged and the projectile is delivered, the animal shall be in a state of complete unconsciousness and remain in this condition throughout shackling, sticking and bleeding.”

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 Sections 1901 to 1906 of Title 7 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, and 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 in any manner not in accordance with sections 1901 to 1906 of Title 7.”

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.

Please provide this office with a written response concerning this ROS by addressing the following:

- Evaluate and identify the nature and cause of the incident.
- Explain the specific reason(s) 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.

You are reminded that as an operator of a federally inspected plant you are expected to comply with FSIS regulations and to take appropriate corrective actions to prevent the inhumane treatment of animals at your establishment. Please be advised you have the right to appeal this matter. If you wish to appeal, you should contact:

Executive Associate for Regulatory Operations
Office of Field Operations
Food Safety and Inspection Service
United States Department of Agriculture
1400 Independence Ave. S.W.
Room 3157, South Building
Washington, DC 20250-3700
Telephone (202) 720-4614
Fax: (202) 690-3287

In addition, you may also request a hearing regarding this determination pursuant to FSIS Rules of Practice (9 CFR Part 500). The rules of practice were published in the Federal Register, Vol.64, no 228, on November 29, 1999. As specified in section 500.5(d), should you request a hearing, FSIS will file a complaint that will include a request for an expedited hearing. If you wish to request a hearing regarding this determination, you should contact:

Scott C. Safian, Director
Enforcement and Litigation Division (ELD)
Office of Investigation, Enforcement and Audit (OIEA)
Food Safety and Inspection Service
United States Department of Agriculture
Patriot Plaza III, 9th Floor Cubicle 9-235A
355 E Street SW
1400 Independence Avenue, SW
Washington, DC 20024-3221
Telephone: (202) 418-8872
Facsimile: (202) 245-5097

If you have any questions regarding this matter, please feel free to contact Mr. Michael Osifat, Deputy District Manager (DDM) at michael.osifat@fsis.usda.gov or by phone at (215) 430-6318.

Sincerely,

For MLE



Dr. Lynda E. Lilyestrom
District Manager
Philadelphia District Office

CC:

FSIS - FO/Quarterly Enforcement Report

Mr. Mark Crowe, Director, CID, FSIS, OIEA, Washington, DC

Ms. Geraldine French, Acting EARO, FSIS, OFO, Washington, DC

Mr. Joseph Priore, Acting RD, FSIS, OIEA, Northeast Region

Dr. Lynda Lilyestrom, DM, FSIS, OFO, Philadelphia District Office

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

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

Mr. Sal Ibrahim, DDM, FSIS, OFO, Philadelphia District Office

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Official Files Establishment Folder – Est. 4999

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