



Food Safety and  
Inspection Service

August 30, 2019

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. John Willard, Owner  
**Ward Willard & Son (Est. 19989)**  
4496 State Highway 812  
Heuvelton, NY 13654

**NOTICE OF REINSTATEMENT OF SUSPENSION**

Dear Mr. Willard,

This letter confirms verbal notification provided to you, Mr. John Willard, Owner, by Mr. Joseph Schein, Deputy District Manager (DDM), at approximately 9:25 A.M. on August 30, 2019, of the Food Safety and Inspection Service's (FSIS) decision to reinstate the suspension of the assignment of Inspection Program Personnel (IPP) for the Slaughter Hazard Analysis and Critical Control Point (HACCP) process at **Ward Willard & Son (Est. 19989)** located in Heuvelton, NY. 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**

At approximately 0749 on August 30, 2019, a cow was moved to the knock box where a plant employee was utilizing a 30/30 caliber rifle to make the first stun attempt. After the initial shot was taken there was a pause and the all clear was not given. At this point a second shot was heard to be fired at 0751. There was another pause, at which time the door to the kill floor opened and an employee left the slaughter floor to get more ammunition out of the desk. It was at this point that inspection personnel looked out the door and observed that the cow was still standing with blood coming from facial region. The employee then returned with the ammunition and a third shot was heard at 0753 at which point the cow was rendered unconscious. IPP took a regulatory control action and tagged off the knock box with US Rejected Tag B19107693. Mr. John Willard was notified that due to the seriousness of this matter, an immediate regulatory control action was taken and that the District Office would be notified of the events in this situation. The establishment operates under a Robust Systematic Approach; however, they were issued a Notice of Suspension on August 9, 2019 for not fully implementing it by not having the back-up device handy nor training the person stunning was a new employee to the slaughter floor with minimal experience.

For firearm stunning, Regulations 9 CFR Parts 313.16 require that the firearms shall be employed in the delivery of a bullet or projectile into the animal in accordance with this section so as to produce immediate unconsciousness in the animal by a single shot before it is shackled, hoisted, thrown, cast, or cut. The animal shall be shot in such a manner that they will be rendered unconscious with a minimum of excitement and discomfort.

### **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.”

### **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.”

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. The Rules of Practice describe the types of enforcement action that FSIS may take to include a withholding action and/or suspension, with or without prior notification, and for filing a complaint to withdraw a Grant of Federal Inspection.

Please provide this office with a written response concerning this NOS 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 Association for Regulatory Operations  
USDA, FSIS, Field Operations  
1400 Independence Ave. S.W.  
Room 3161, South Building  
Washington, DC 20250-3700  
Telephone: 202-205-0001  
Fax: 202-720-6050

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. Joseph Schein, Deputy District Manager (DDM) at [Joseph.Schein@usda.gov](mailto:Joseph.Schein@usda.gov) or by phone at (215) 430-6219.

Sincerely,

**JOSEPH SCHEIN** Digitally signed by JOSEPH SCHEIN  
Date: 2019.08.30 11:45:47 -04'00'

Dr. Lynda Lilyestrom  
District Manager  
Philadelphia District Office

CC:

FSIS - FO/Quarterly Enforcement Report

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

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

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

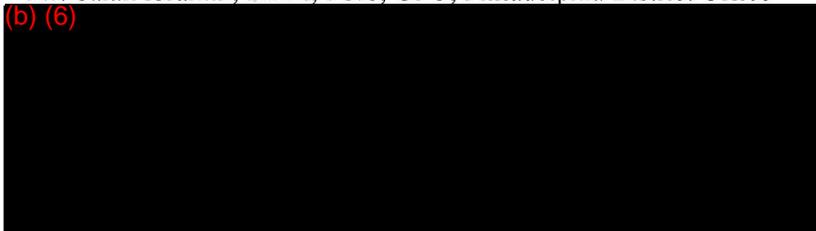
Dr. Lynda Lilyestrom, DM, FSIS, OFO, Philadelphia District Office

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

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

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

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Est. File M 19989

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