



Food Safety and
Inspection Service

June 8, 2021

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. David E. Froelich II, President
Alex Froehlich Packing Company (Est 9369)
77 D Street Ext
Johnstown, PA 15906

NOTICE OF SUSPENSION

Dear Mr. Froehlich,

This letter confirms verbal notification provided to Mr. David E. Froehlich II, President, by Mr. Joseph Schein, Deputy District Manager (DDM), at approximately 1455 hours on June 8, 2021, 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 **Alex Froehlich Packing Company (Est 9369)**, 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 June 8, 2021, at approximately 1235 hours, the following egregious humane handling incident was observed by FSIS IPP. While performing humane handling verification activities, the Consumer Safety Inspector (CSI) observed an establishment employee move a sow into the stun box for stunning with a captive bolt, the captive bolt fired and hit the sow in between the eyes (1st attempt), the sow remained standing, looking around, and fully alert. The CSI witnessed blood on the cement floor dripping from the animal's nose. The establishment employee then retrieved a .22 magnum rifle and fired the second attempted stunning shot within seconds. The sow remained conscious and was still standing. Immediately, the employee discharged a round from the rifle, in between the eyes, for a 3rd attempt. The employee then reloaded the .22 rifle and shot the sow approximately one (1) inch above the previous shot between the eyes (4th attempt). The CSI then proceeded to contact the Supervisory Public Health Veterinarian (SPHV).

The sow remained standing and was bleeding and vocalizing loudly. The employee left the slaughter floor to retrieve the plant owner at this time. The plant owner came out to the kill floor within two (2) minutes and he fired the rifle between the eyes (5th attempt). The sow dropped. The plant owner and employee opened the stun box and the sow rolled out onto the floor, however, it

then stood up and continued to vocalize. The plant owner and the employee got the animal to walk back into the stun box. Once back into the stun box, the plant owner used the captive bolt to attempt another stun (6th attempt). The sow remained standing and vocalizing. The plant owner immediately shot the sow with the .22 rifle (7th attempt), the sow fell, but got back up in standing position and vocalized. Still another shot from the rifle was applied to the sow for an 8th attempt and she still remained standing. The plant owner then attempted another stun with the captive bolt, the sow fell and was rendered unconscious at approximately 12:54 pm (9th).

Examination of the skull revealed a single full-thickness holes in the forehead of the animal. The skull was crushed all around the full thickness hole due to the multiple stunning attempts.

IPP took regulatory control action and U.S. Retain tag # B37530286 was applied to the knock box

There has been no humane handling non compliances within the past 90 days.

Plant Owner was notified verbally of the Noncompliance and the establishment's failure to adhere to the regulatory requirements of 9 CFR 313.15(a)(1) and 313.16(a)(1).

For captive bolt stunning, Regulation 9 CFR Part 313.15(a)(1) states that "The captive bolt stunner shall be applied to the livestock in accordance with this section so as to produce immediate unconsciousness in the animals before they are shackled, hoisted, thrown, cast, or cut. The animals shall be stunned in such a manner that they will be rendered unconscious with a minimum of excitement and discomfort."

For firearm stunning, 9 CFR Part 313.16 requires that 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.”

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 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: 202-215-0001

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, Branch Chief
Enforcement Operations Staff (EOS)
Office of Investigation, Enforcement and Audit (OIEA)
Food Safety and Inspection Service
United States Department of Agriculture
Stop Code 3753, Patriot Plaza 3, Cubicle 9-253-A
1400 Independence Avenue, SW
Washington, DC 20250
Telephone: (202) 418-8921
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 or by phone at (215) 430-6219.

Sincerely,

JOSEPH SCHEIN

Digitally signed by JOSEPH
SCHEIN

Date: 2021.06.08 16:25:05 -04'00'

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, EARO, FSIS, OFO, Washington, DC

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

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

Ms. Valerie Clay, DDM, FSIS, OFO, Philadelphia District Office

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

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



Official Files Establishment Folder – Est. 9369

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