



Food Safety and
Inspection Service

March 21, 2022

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

Ms. Tara Oeschger, President
Northeast Kingdom Processing, LLC. (EST 46706)
796 Industrial Parkway
St. Johnsbury, VT 05819

NOTICE OF SUSPENSION

Dear Ms. Oeschger,

This letter confirms verbal notification provided to Ms. Tara Oeschger, President, by Mr. Michael J. Osifat, Deputy District Manager (DDM), at approximately 1335 hours on March 21, 2022, 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 **Northeast Kingdom Processing, LLC. (EST 46706)** located in St. Johnsbury, VT. 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 March 21, 2022, at approximately 1050 hours, the Consumer Safety Inspector (CSI) observed the following egregious Humane Handling incident. The CSI heard a hog vocalize and turned around to observe an establishment employee removing the stunning wand from a hog's neck. The CSI then heard the employee shout and watched as he placed the stunning wand behind the hog's ears, again. Once again, the hog began to vocalize. At this point the employee opened the gate and administered voltage through the wand to the hog's chest. Immediately after, the hog vocalized again, and its head was moving. The forequarters were also moving slowly in a way that was not consistent with death throes. The employee moved to chain the legs to hoist the animal up for the bleeding stick, but the CSI stopped him and informed him and, the kill floor Supervisor, that the hog was not completely stunned. At this point establishment personnel performing the stunning held the wand at the heart much longer, whereby there was brief vocalization, and then animal performed the rhythmic death throes consistent with a stunned hog. The hog was then hoisted up and stuck.

IPP proceeded to tag the stunning chute with U.S. Reject tag No. B42088962.

The establishment currently is operating under a Robust Systematic Approach to Humane Handling; however, its employees were not following the program as implemented.

For electrical stunning, 9 CFR Part 313.30(a)(3) requires that the quality and location of the electrical shock shall be such as to produce immediate insensibility to pain in the exposed animal.

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, Director
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 Ms. Valerie Clay, Deputy District Manager (DDM) at valerie.clay@usda.gov or by phone at (202) 763-9672 OR (b) (6)

(b) (6) or by phone at (b) (6)

Sincerely,

MICHAEL OSIFAT

Digitally signed by MICHAEL
OSIFAT
Date: 2022.03.21 14:15:28 -0400

Ms. Valerie Clay, Acting District Manager/(DDM)
USDA/FSIS/OFO
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

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

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

Mr. Salah Ibrahim, FLS/Acting DDM, FSIS, OFO, Philadelphia District

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

(b) (6)

Official Files Establishment Folder – Est. 46706

(b) (6)