



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

March 6, 2018

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

Mr. Dennis Kistler, Owner
Kistler's Butcher Shop, (Est. 44101)
3692 Sherman's Valley Road
Loysville, PA 17047

NOTICE OF SUSPENSION

Dear Mr. Kistler,

This letter confirms verbal notification provided to Mr. Dennis Kistler, Owner, by Dr. Lynda Lilyestrom, Deputy District Manager, at approximately 10:43 A.M. on March 6, 2018, of the Food Safety and Inspection Service's (FSIS) decision to suspend the assignment of Inspection Program Personnel (IPP) for the Slaughter Hazard Analysis and Critical Control Point (HACCP) process **Kistler's Butcher Shop, (Est. 44101)**, Loysville, 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 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.

Findings/Basis for Action

On March 6, 2018, at approximately 7:15 A.M., the Supervisory Public Health Veterinarian and the Inspector-In-Charge at your establishment heard and observed the excessive use of the activated electric prod on an Angus beef. You had trouble getting the beef into the stun box. The beef turned around in the alley to the stun box so it faced away from the stun box. You used the activated electric prod alternately on the front of the animal to back it into the stun box and on the rear of the animal to move it back into the holding pen. The beef reacted by throwing its head up, kicking out, and snorting in agitation and distress. You used the activated electric prod 10 to 12 times during these attempts, without success in moving the beef, until Inspection personnel halted the slaughter by taking Regulatory Control Action with U.S. Rejected tag #B34782000. Your establishment does not have a Robust Systematic Approach to Humane Handling.

For handling of livestock, Regulation 313.2 requires that the driving of livestock from the unloading ramp 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, and that electric prods or other

implements employed to drive animals shall be used as little as possible in order to minimize excitement and injury. Any excessive use of such implements is prohibited.

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 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) 720-3697
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:

Director
Enforcement and Litigation Division (ELD)
Office of Investigation, Enforcement and Audit (OIEA)
Food Safety and Inspection Service
United States Department of Agriculture
Stop Code 3753, PP3, Cubicle 8-235A
1400 Independence Avenue, SW

Washington, DC 20250
Telephone: (202) 418-8872
Facsimile: (202) 245-5097

If you have any questions regarding this matter, please feel free to contact (b) (6)
(b) (6) via (b) (6)

Sincerely,



Ms. Susan G. Scarcia (for)
District Manager
Philadelphia District Office

Cc:

FSIS - FO/Quarterly Enforcement Report

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

Dr. Hany Sidrak, EARO, FSIS, OFO, Washington, DC

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

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

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

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

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

(b) (6)



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Official Files

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