



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 12, 2013

**CERTIFIED RETURN
RECEIPT-REQUESTED**

Mr. (b)(6)(b)(7)(C) President
Gold Medal Packing, Inc. (Est. 17965)
8269 Old River Road
Rome, NY 13440

NOTICE OF SUSPENSION

Dear Mr. (b)(6)(b)(7)(C)

This letter confirms Dr. Roger Murphy's, Deputy District Manager (DDM), verbal notification to Mr. (b)(6)(b)(7)(C) at 10:30 AM, on March 12, 2013, of the Food Safety and Inspection Service (FSIS) decision to suspend the assignment of inspectors for slaughter operations at your establishment #17965M, Gold Medal Packing located in Rome, NY. FSIS determined that your establishment has failed to handle animals humanely, resulting in the commission of an egregious act. Your establishment is not in compliance with Title 9 of the Code of Federal Regulation (9 CFR) Parts 313.2 (f), 313.15(a)(1) and (3), and 313.15(b)(1)(iii) and(iv). We are taking this action in accordance the Federal Meat Inspection Act (FMIA) 21 U.S.C 603, and the Rules of Practice in (9 CFR) Part 500.3(b).

Background/Authority

The FMIA (21 U.S.C 603 *et seq.*) provides that for the purpose of preventing the inhumane slaughtering of livestock, the Secretary shall appoint inspectors for that purpose to examine and inspect the method by which cattle, sheep, swine, goats, horses, mules, or other equines are slaughtered and handled in the slaughtering establishments inspected under this Act. The Secretary may refuse to provide inspection to a new slaughtering establishment, or may cause inspection be temporarily suspended if animals (any cattle, sheep, swine, goats, horses, mules, or other equines) have been slaughtered or handled by any method not in accordance with sections 1901 to 1906 of Title 7 of the Humane Methods of Slaughter Act of 1978. Until the establishment furnishes assurance satisfactory to the Secretary, all slaughtering and handling in connection with slaughter of livestock shall be in accordance with such a method.

The Humane Methods of Slaughter Act of 1978 (HMSA) (Section 1901, 1902, and 1906, Attachment 1) states that the slaughtering and handling of livestock are to be carried out only by humane methods. In that Act, congress determined (among other things) that the use of humane methods of handling and slaughtering livestock prevents needless suffering of animals and results in safer and better working conditions for employees in slaughter establishments.

Under the authorities of the Acts, FSIS has prescribed rules and regulations required for the humane slaughtering of livestock, as contained in Regulations 9 CFR Part 313, and the Humane

Methods of Slaughter Act of 1978. FSIS has also developed Rules of Practice regarding enforcement prescribed in 9 CFR Part 500. The Rules of Practice describe the types of enforcement actions that FSIS may take and include procedures for taking a withholding action and or suspension, with or without prior notification, as well as the procedures for filing a complaint to withdraw a Grant of Federal Inspection.

Findings/Basis for Suspension

On March 12, 2013, at approximately 8:50 AM, while performing a Sanitary Dressing Procedure in the de-hiding room, the FSIS Supervisory Public Health Veterinarian (SPHV) and the Consumer Safety Inspector (CSI) observed a calf at the first air knife position that was gasping and moving more than should be expected. Upon further investigation by the SPHV, the calf was still exhibiting a tongue reflex to stimuli as well as a corneal reflex to touch. This animal had already been through the stunning, hoisting, sticking, bleeding hide washing, steam vacuuming of the hide, bunging, skinning down of both hind legs, steam vacuuming, flaming, and transfer prior to the first air knife station. The plant, after FSIS pointed this out, performed an arterial stick to finish the bleeding out of the animal as this was faster than retrieval of the back up stunning device. This incident was evaluated and determined to be an egregious humane handling violation.

For captive bolt stunning, regulations 9 CFR Parts 313.15 (a) (1) and (3) require that you appropriately and effectively administer stunning methods that produce immediate unconsciousness in the animal. The animal should be stunned in such a manner that it is rendered unconscious with a minimum of excitement and discomfort. Further, 9 CFR Part 313.15 (b)(1)(iii) requires that the stunning area shall be so designed and constructed as to limit the free movements of animals sufficiently to allow the operator to locate the stunning blow with a high degree of accuracy and 9 CFR 313.15 (b) (1) (iv) further states that the stunning operation is an exacting procedure and requires a well-trained and experienced operator and that he must be able to accurately place the stunning instrument to produce immediate unconsciousness.

The suspension of the assignment of inspectors for slaughter operations at your establishment will remain in effect until you provide the FSIS Philadelphia District Office with adequate written assurances including corrective actions and further planned preventive measures to assure that you handle and slaughter livestock at your establishment humanely.

In order to resume inspected operations, you must submit corrective actions to my attention at the Philadelphia District Office. We expect you to develop a written comprehensive systematic humane handling program that includes, at a minimum, 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.

It is important that you provide assurance that the live animals at your facility are receiving adequate care (water and feed appropriate for the species and class of animal to comply with the humane handling regulations). As an operator of a federally inspected plant, we expect you to comply with FSIS regulations and prevent inhumane handling of livestock at your establishment. Please be advised that your failure to respond adequately to these issues may result in our initiating action to withdraw inspection from your establishment.

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 production of adulterated products at your establishment. Please be advised you have the right to appeal this matter. If you wish to appeal, you should contact:

Dr. Armia Tawadrous
Executive Associate for Regulatory Operations
USDA, FSIS, Field Operations
1400 Independence Ave., SW
Washington, DC 20250
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 (9CFR 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
Evaluation and Enforcement Division
OPEER, FSIS
United States Department of Agriculture
Patriot Plaza III, 8th Floor, Cubicle 93
355 E. Street, SW
Washington DC 20024-3221
Telephone: (202) 418-8872
Facsimile: (202) 245-5097

We urge your cooperation and compliance. Please direct any questions to Dr. (b)(6)(b)(7)(C) DVMS at: (215) 430- (b)(6)(b)(7)(C) or Dr. Helen Spurling, DDM at: (215) 430-6303 in the Philadelphia District Office.

Sincerely,



for Jan T. Behney
District Manager

cc:

FSIS - FO/Quarterly Enforcement Report

Dr. Jerry Elliott, Director, CID, FSIS, OPEER, Washington, DC

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

Mr. Jan T. Behney, DM, FSIS, OFO, Philadelphia District Office.

Dr. Helen Spurling, DDM, FSIS, OFO, Philadelphia District Office

Dr. Roger Murphy, DDM, FSIS, OFO, Philadelphia District Office

Dr. Larry Davis, DDM, FSIS, OFO, Philadelphia District Office

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

Mr. (b)(6)(b)(7)(C) SEIAO, FSIS, OFO, Philadelphia District Office

Mr. (b)(6)(b)(7)(C) SEIAO, FSIS, OFO, Philadelphia District Office

Ms. (b)(6)(b)(7)(C) SEIAO, FSIS, OFO, Philadelphia District Office

Dr. (b)(6)(b)(7)(C) SEIAO, FSIS, OFO, Philadelphia District Office

Mr. (b)(6)(b)(7)(C) DCS, Philadelphia, PA

Dr. (b)(6)(b)(7)(C) DCS, Philadelphia, PA

Dr. (b)(6)(b)(7)(C) FLS, 60-26, Croghan, NY

Dr. (b)(6)(b)(7)(C) SPHV, Rome, NY

Dr. (b)(6)(b)(7)(C) DVMS, Eagle Bridge, NY

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Official Files,

FSIS-OFO-(b)(6)(b)(7)(C)-DVMS (b)(6)(b)(7)(C) 3/12/13