



United States Department of Agriculture

Food Safety and
Inspection Service

Office of Field
Operations
Des Moines District
Office

Neal Smith Federal
Building
210 Walnut Street
Room 985
Des Moines, IA
50309-2123

Voice 515.727.8960
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October 24, 2019

Signed original sent via FedEx

Lee Falkavage
Julius Falkavage LLC.
6811 Burr Oak Road
Stevens Point, WI 54482

NOTICE OF SUSPENSION

Mr. Falkavage

This letter confirms verbal notification given to you by the Food Safety and Inspection Service (FSIS) on October 24, 2019, of our decision to suspend the assignment of FSIS inspection program personnel (IPP) at, Julius Falkavage LLC., located at 6811 Burr Oak Road, Stevens Point, WI 54482, herein referred to as “your establishment”. This action is taken in accordance with the Rules of Practice, 9 CFR 500.3(b), which indicates that FSIS may take a withholding action or impose a suspension without providing an establishment prior notification if it is handling or slaughtering animals inhumanely such as occurred at your establishment on October 24, 2019.

Background

The Federal Meat Inspection Act (FMIA) (21 U.S.C. 603 *et seq.*) provides for the purpose of preventing the inhumane slaughtering of livestock. This Act gives FSIS the authority, as designated by the Secretary of the Department of Agriculture, to prescribe rules and regulations describing examinations and inspections of the method by which cattle, sheep, swine, goats, horses, mules, and other equines are slaughtered in the establishments inspected under this Act. They also provide FSIS program personnel the authority to temporarily suspend at a slaughtering establishment if FSIS finds that any cattle, sheep, swine, goats, horses, mules, or other equines have been slaughtered or handled in connection with slaughter at such establishments by any method not in accordance with the *Humane Methods of Slaughter* Act of August 27, 1958 (72 Stat. 862; 7 U.S.C. 1901-1906), until the establishment furnishes assurances satisfactory to FSIS that all slaughtering and handling in connection with the slaughter of livestock shall be in accordance with such methods.

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 Action

At 1015 hours the CSI observed the following non-compliance while observing HATS Category VIII – Stunning Effectiveness: An establishment (b) (6) stunned the fourth market swine with an electrical stunning wand to the head only and observed the animal remained conscious. The animal was on all four feet between the red hog sorting board and the side of the slaughter chute. The animal remained standing. It was kicking its hind legs in a controlled manner like riding a bike and trying to remain upright on the sloped floor. The animal vocalized with a low bellow sound. (b) (6) tried a second time to stun the animal with the same electrical stunner with no effect. The animal remained conscious. (b) (6) tried for the third time to stun the animal with the same electrical stunner with no effect. Another employee lassoed and hoisted the hog by the hind leg. While the conscious animal was in the hoisted position, it continued to blink, multiple times, track movement with its eyes, breath in a rhythmic manner, multiple times and continued to vocalize.

(b) (6) did not have a back-up device to stun the animal so after the animal was hoisted, it was stuck and bled out. The animal lost consciousness through anemia.

The CSI immediately called the Front Line Supervisor (FLS), the Des Moines District Office and the District Veterinary Medical Specialist, for further guidance. The CSI placed U.S. Reject Tag # B40634135 on the knock box and informed establishment management, (b) (6) that slaughter operations were suspended until further notice.

This is a violation of the Federal Meat Inspection Act (FMIA) (21 U.S.C.) 603, Regulations 9 CFR 313.30 and the Humane Methods of Slaughter Act of 1978.

Justification

The establishment does not have a humane handling program that meets the four criteria as described in the Federal Register Notice of September 9, 2004. Based on the above findings, the Des Moines District Office has determined to suspend the assignment of inspectors for your slaughter operations, as per the Rules of Practice 9 CFR 500.3(b) and as specified in 9 CFR 313.30.

If you choose to respond with corrective and preventive measures please provide this office with a written response concerning the Notice of Suspension (NOS) and we will determine further action, if any, based upon your response. If you choose to address this issue your written response should include:

1. An initial assessment of incident/determine the cause.
2. Immediate corrective actions taken.
3. Preventive measures to prevent reoccurrence.

4. Any training of employees and materials used.
5. Type of monitoring activity for stunning, along with a documentation record.

You are reminded that as an operator of a federally inspected establishment, you are expected to comply with FSIS regulations, regarding the humane handling and slaughter of livestock. Please be advised that you have the right to appeal this matter. If you wish to appeal, you should contact:

U.S. Department of Agriculture
Food Safety and Inspection Service
Attention: Paul Wolseley, EARO
1400 Independence Avenue, SW
Room 344-E, Whitten Building
Washington, DC 20250

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
Food Safety and Inspection Service
Office of Investigation, Enforcement and
Audit Enforcement and Litigation Division
United States Department of Agriculture
Stop Code 3753, PP3, Cubicle 8-243A
1400 Independence Avenue, SW
Washington, DC 20250
Telephone No: 202-418-8872
Fax number: (202) 245-5097

We urge your cooperation and voluntary compliance. If you have questions regarding this matter, please feel free to contact Dr. Renee Larson, District Veterinary Medical Specialist, (DVMS) at 612-590-1922 of the Des Moines District Office, at 515-727-8960.

Sincerely,



Dr. Dawn Sprouls
District Manager
Des Moines District
FSIS, USDA