



United States Department of Agriculture

Food Safety and
Inspection Service

April 23, 2020

Office of Field
Operations
Des Moines District
Office

Signed original sent via FedEx
Signed Copy Hand Delivered

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

Doug Klarenbeek, Owner
Hudson Meat and Sausage, Inc.
617 4th St.
Hudson, South Dakota 57034

Voice 515.727.8960
Fax 515.727.8991

NOTICE OF REINSTATEMENT OF SUSPENSION LETTER

Dear Mr. Klarenbeek:

This letter confirms verbal notification by the Des Moines District, Food Safety and Inspection Service (FSIS) on April 23, 2020, of our decision to reinstate the suspension of the assignment of FSIS inspection program personnel (IPP) at your firm, Est. M18632, Hudson Meats and Sausage, Inc., referred to as your/the establishment herein. 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 April 23, 2020.

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. The FMIA 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 Statute 862; 7 USC 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 approximately 0900 hours, while verifying compliance with HATS Category VIII – Stunning Effectiveness, the SPHV observed the following egregious non-compliance: On the first hog on April 23, 2020, the establishment's stunning employee waited for the appropriate positioning for the stunning shot with a .22 caliber long firearm on a market hog within the establishment's restrainer. The animal was able to move freely around within the restrainer. The first shot attempt was ineffective, and the hog remained conscious. The hog remained standing and vocalizing. The stunning employee was aware the positioning of the hog had changed at the last moment (the hog moved its head facing the wall side of the restrainer) and the projectile struck the hog off target. It impacted the skull approximately 1.5 inches above and towards the midline from the right eye. The employee was carrying a back-up cartridge for the .22 caliber long rifle and reloaded the firearm for a second attempt. However, the hog positioned its head against that back wall of the restrainer while it was moving around within the restrainer. The employee attempted to get the animal to turn and attempted to find a different firing position. Neither option worked to gain an effective aiming point. The employee next attempted to utilize an alternate aiming point on the head by firing down from above the head behind the eyes. The second shot with the .22 long rifle was not effective. The animal was conscious, standing, and vocalized. The alternate weapon, .22 magnum rifle was available, and was used to make the third attempt which was effective at rendering the hog insensible.

Additional stunning was discontinued while the establishment continued dressing procedures. The SPHV notified Mr. Bradey Klarenbeek, Co-Owner, of the noncompliance with the regulatory requirements of 9 CFR 313.16(a)(1). After correlation with establishment management it was decided that an unscheduled disabled hog that was presented to the establishment for slaughter would be stunned under FSIS verification to prevent further welfare issues. Once the animal was humanely moved inside, it remained in a sitting position just inside the door, not within the restrainer. A single shot utilizing a .22 long rifle on the primary stunning site was effective. After this animal was stunned, the SPHV took a regulatory control action and placed U.S. Reject tag, number B20898480, to the restrainer.

This is a violation of the Federal Meat Inspection Act (FMIA) (21 U.S.C.) 603, Regulations 9 CFR 313.16 and the Humane Methods of Slaughter Act of 1978.

Justification

Currently, your slaughter process is operating under the terms of a Notice of Suspension Held in Abeyance (NOSHA) as a result of a similar egregious inhumane handling incident on October 28, 2019. This NROS is being issued for the failure to stun the animal effectively, which indicates a failure to follow or adequately implement your systematic approach, and the corrective and preventive measures outlined on your response to the recent Notice of Suspension (NOS).

The suspension of the assignment of inspectors will remain in effect until such time as you provide, to this office, adequate corrective actions and preventive measures to assure that the handling and/or slaughter of animals will be done humanely, and in accordance with the FMIA, and the regulations promulgated therein.

If you choose to respond with corrective and preventive measures please provide this office with a written response concerning the NROS 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 (b) (6) or (b) (6) or the Des Moines District Office, at 515-727-8960.

Sincerely,



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