



February 13, 2020

**ELECTRONIC COPY PROVIDED
AND DELIVERED BY COURIER**

Mr. Terry Bittner, Owner
Establishment M20855
Chenoa Locker, Inc.
8 N Veto St
Chenoa, IL 61726

NOTICE OF REINSTATEMENT OF SUSPENSION

Dear Mr. Bittner:

This letter confirms verbal notification provided to you by Dr. Karnail Mudahar, Deputy District Manager, on February 13, 2020, at approximately 1315 hours, of the FSIS decision to suspend the assignment of inspectors from your slaughter process at Chenoa Locker, Inc., establishment M20855, located at 8 North Veto Street, in Chenoa, Illinois. This action is based on your establishment's failure to effectively implement humane methods of slaughtering and handling animals in a manner that complies with the regulatory requirements prescribed by the Federal Meat Inspection Act (FMIA) and Humane Methods of Slaughter Act (HMSA). Your establishment is in violation of Title 9 of the Code of Federal Regulations (9 CFR) Section 313.15(a)(1) regarding the humane slaughter of livestock. The Rules of Practice, 9 CFR 500.3(b), specify that FSIS may issue a suspension without providing prior notification if an establishment is handling or slaughtering animals inhumanely.

Background and Authority

The Federal Meat Inspection Act (21 U.S.C. 603 Section 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, establishment 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.*"

The Humane Methods of Slaughter 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 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.”

The Humane Methods of Slaughter 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 has been observed and identified, 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 the humane slaughter of livestock, as required by 9 CFR 313, and other matters. FSIS has also developed Rules of Practice regarding enforcement, within in 9 CFR 500. The Rules of Practice describe the types of enforcement action that FSIS may take a withholding action and/or suspension, with or without prior notification, and for filing a complaint to withdraw a Grant of Federal Inspection.

Findings/Basis for Action

On December 10, 2019, at approximately 1140 hours CST the Consumer Safety Inspector observed an attempt to stun a beef steer with a handheld captive bolt device. The animal was confined to the knock box. The knock box is designed without any means of active head restraint. The device was placed on the poll area of the head and discharged. The animal dropped to the floor of the knock box but was observed to remain conscious and attempt to rise. The employee did not have ammunition for the device readily available and proceeded to the other side of the kill floor to retrieve ammunition and reload the device. The animal was observed to remain conscious and continue raising its head in an attempt to rise. It was noted that the eyes were blinking naturally in a conscious manner. Once the device was reloaded, it was placed on the head a second, third, and fourth time with each attempt resulting in the device failing to discharge. The device was placed onto the head a fifth time, discharged, and effectively rendered the animal insensible.

The observations as described constitute a failure to comply with the regulatory requirements of 9 CFR 313.15(a)(1) which specifies: “*The captive bolt stunners shall be applied to the livestock in accordance with this section so as to produce immediate unconsciousness in the animals before they are shackled, hoisted, thrown, cast, or cut. The animals shall be stunned in such a manner that they will be rendered unconscious with a minimum of excitement and discomfort,*” and 9 CFR 313.15(b)(1)(iii) which specifies, in part, “*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.*” The occurrence of this inhumane handling incident constituted an egregious violation of the humane handling requirements specified within the provisions of 21 U.S.C. 603, Section 3 (b) of the FMIA, and 7 U.S.C. 1901 and 1902 of the HMSA of 1978. A Notice of Suspension (NOS) was issued on December 10, 2019 and placed into abeyance on December 12, 2019.

On January 14, 2020, during the abeyance period, observations of stunning effectivity were being conducted as part of the District Veterinary Medical Specialist (DVMS) 30-day Humane Handling Verification Visit (HHVV) when the following noncompliance was observed. A steer was confined to the knock box and the head gate was engaged. The animal struggled against the restraint so the employee elected to wait until the animal stopped struggling before attempting to stun it with a handheld captive bolt device. Once the animal was relatively still, the employee placed and discharged the captive bolt device onto the head of the animal. The animal was observed to remain in the head gate, conscious, and standing. The employee immediately reloaded the handheld captive bolt device and administered a second effective corrective action stun,

rendering the animal unconscious at that time. The observations as described constitute a failure to comply with the regulatory requirements of 9 CFR 313.15(a)(1) and a noncompliance report (NR) was issued.

On February 13, 2020, at approximately 0820 hours, during the abeyance period, observations of stunning effectivity were being conducted as part of the DVMS 60-day HHVV, when the following noncompliance was observed. A steer was confined to the knock box and the head gate was engaged. The employee placed and discharged the handheld captive bolt device into the head of the animal. The animal was observed to remain conscious, blinking naturally, and vocalized. The employee immediately reloaded the handheld captive bolt device and administered a second effective corrective action stun, rendering the animal unconscious at that time. The observations as described constitute a failure to comply with the regulatory requirements of 9 CFR 313.15(a)(1) and an NR was issued.

On February 13, 2020, at approximately 0920 hours, observations of stunning effectivity were being conducted when the following noncompliance was observed. A steer was confined to the knock box. The head restraint was engaged and the employee proceeded to place the handheld captive bolt device. The device was discharged into the head of the animal and it remained standing and vocalized. The employee immediately reloaded the captive bolt device, placed and discharged the device into the head of the animal, effectively rendering it unconscious. The observations as described constitute a failure to comply with the regulatory requirements of 9 CFR 313.15(a)(1) and an NR was issued.

The repetitive occurrence of noncompliance with 9 CFR 313.15(a)(1) demonstrates a trend of the same root cause as the NOS dated December 10, 2019.

Summary and Conclusion

The occurrence of this trend in noncompliance results in the conclusion that you have not sufficiently implemented corrective actions that have restored and maintained regulatory compliance as required.

Please provide this office with a written response to address the regulatory issues identified within this letter. At a minimum, your corrective actions should address the following:

1. Identify the specific reason(s) why the events described occurred.
2. Describe the specific action(s) that will be implemented to eliminate the cause of the incident and prevent future recurrences.
3. Describe the specific future monitoring activity or activities that your establishment will employ to ensure the actions implemented are effective.
4. Provide any supporting documentation and records maintained and associated with your proposed corrective actions and preventive measures.

Please be advised that you have the right to appeal this matter. If you wish to appeal this action, contact:

Michael Watts
Executive Associate for Regulatory Operations
USDA, FSIS, OFO
Room 3168 - South Building
1400 Independence Avenue, SW
Washington, DC 20250
Telephone: (202) 205-0194

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
Stop Code 3753, PP3, Cubicle 9-205
355 E. Street SW
Washington, DC 20024-3221
Telephone: (202) 418-8872
Fax: (202) 245-5097

If you have questions regarding this matter, you may contact (b) (6)
(b) (6) or you may contact this office at (630) 620-7474 or by
fax at (630) 620-7599.

Sincerely,



Paul V. Wolseley
District Manager
Chicago District