



United States Department of Agriculture

Food Safety and
Inspection Service

Office of Field
Operations
Denver District Office

1 Denver Federal
Center, Bldg. 45
P.O. Box 25387
Denver, CO 80225

Voice (303)236-9800
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July 15, 2020

**SENT VIA FEDEX &
ELECTRONIC MAIL**

Elliot Tolbert, Plant Manager
Northwest Premium Meats, LLC, Est. M11032
137 N. Happy Valley Road
Nampa, ID 83687
nwpremiummeats@gmail.com

NOTICE OF SUSPENSION (NOS)

Mr. Tolbert,

This letter confirms the verbal notification provided to your establishment, Northwest Premium Meats, LLC, Establishment M11032, located in Nampa, ID, on Wednesday, July 15, 2020, by the Food Safety Inspection Service (FSIS), Denver District, of the suspension of the assignment of inspectors and the withholding of the marks of inspection at your establishment for slaughter operations. Dr. Robert Reeder, Deputy District Manager, notified you of the suspension action. This action was initiated in accordance with Title 21 of the United States Code (USC), Section 603(b) and Title 9 of the Code of Federal Regulations (CFR) Part 500.3(b) (Rules of Practice).

Background Authority

The Federal Meat Inspection Act (FMIA), 21 USC Section 603(b), provides for the purpose of preventing the inhumane slaughtering of livestock. The FMIA 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 the FMIA. The FMIA also provides FSIS Program personnel the authority to suspend operations 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 (HMSA) of August 27, 1958 (72 Statute 862; Title 7 USC, Sections 1901-1906), until the establishment furnishes FSIS with satisfactory assurances that all slaughtering and handling in connection with the slaughter of livestock shall be in accordance with such methods.

Under the authorities of these Acts, FSIS has prescribed rules and regulations required for the humane slaughtering of livestock, contained in Title 9 CFR Part 313. 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.

Finding/Basis for Action

On Wednesday, July 15, 2020, the FSIS Supervisory Public Health Veterinarian (SPHV) documented in a Memorandum of Interview (MOI) the following event at Est. M11032:

"At approximately 1500 hours on 7/15/2020, (b) (6) observed the establishment stun operator apply a head-only electric stun on a market hog. The animal fell and leaned against the wall and appeared insensible. The stun operator attempted to use the electric stun wand on the chest, but the wand did not discharge. The employee then grabbed the hind-leg of the animal and attempted to shackle the animal. The pig then stood up, and (b) (6) also observed the animal regain consciousness, was ambulating, and was twitching and tremoring. The stun operator retrieved the .22 rifle and successfully stunned the animal with a stun to the forehead.

USDA Reject tag B38905539 was applied to the stun box.

Mr. Tolbert was verbally notified of the incident. All slaughter of amenable species has been suspended until further direction from the Denver District Office. The establishment does not operate under a Robust Systematic Approach to Humane Handling."

Summary

The decision to suspend the assignment of inspectors at your establishment is based on this noncompliance with 9 CFR 313.30(a)(4). This is an inhumane noncompliance whereby an animal returned to consciousness following electrical stunning. In addition, your establishment was not operating under a Robust Systematic Approach (RSA) during the time of the event, so regulatory discretion is not possible.

The suspension of the assignment of inspectors will remain in effect until such time as you provide the Denver District Office adequate written corrective actions and preventative measures to ensure that livestock at your establishment are handled and slaughtered humanely, and in accordance with the FMIA, the HMSA, and 9 CFR 313 regulations.

These should include:

- A written description of the incident.
- The root cause of the incident.
- Your immediate corrective actions.
- Your specific corrective actions to prevent reoccurrence of the noncompliance.
- Any training or retraining of employees you plan to provide, including materials you're planning to use.
- Any monitoring procedures, including any documentation records.

In accordance with Title 9 CFR 500.5(a)(5), you may appeal this action by contacting:

Paul Wolseley
Acting Executive Associate for Regulatory Operations
USDA/FSIS/OFO
Room 3159 South Building
Washington, D.C. 20250
Tel: 207-708-9506
Paul.Wolseley@usda.gov

In accordance with 9 CFR Part 500.5 (d), you may request a hearing concerning this action by contacting:

Scott C. Safian
Enforcement and Litigation Division
Office of Investigation, Enforcement and Audit
Food Safety and Inspection Service
Stop Code 3753, PP III, Cubicle 9-235A
1400 Independence Avenue, SW
Washington, D.C. 20250
Voice: (202) 418-8872
Fax: (202) 245-5097

If you have any questions regarding this matter, you may contact the Denver District Office at (303)236-9800.

Sincerely,

ROBERT
REEDER

Digitally signed by
ROBERT REEDER
Date: 2020.07.15
16:25:55 -06'00'

FOR

Valerie Clay
District Manager
FSIS Denver District Office
Valerie.Clay@usda.gov

cc: FO/QER
Est. File
R. Reeder, DDM
S. Hoffman, DDM
J. VanHook, DDM

(b) (6)

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S. Baucher, RD/OIEA