



United States Department of Agriculture

Food Safety and
Inspection Service

September 29, 2020

Office of Field
Operations
Des Moines District
Office

Signed original sent via Email
Signed Copy Hand-Delivered

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

(b) (6)
Cimpl's Inc.
1000 Cattle Drive
Yankton, South Dakota 57078

Voice 515.727.8960
Fax 515.727.8991

NOTICE OF REINSTATEMENT OF SUSPENSION

Dear (b) (6) :

This letter confirms verbal notification by the Des Moines District, Food Safety and Inspection Service (FSIS) on September 29, 2020, of our decision to reinstate the suspension of the assignment of FSIS inspection program personnel (IPP) for slaughter operations at your firm, Est. M2460, Cimpl's Inc., herein referred to as your/the 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 September 29, 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 activities 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; 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 HMSA 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 1010 hours, while performing HATs task category IX - Conscious Animals on the Rail in the stunning area, IPP observed a mature Holstein cow enter the stunning area. After the animal's head was successfully captured in the head restraint the stunning employee applied the primary stun and a security stun with the pneumatic captive bolt. The cow lost posture after these stunning attempts. The animal was slid out of the restrainer, shackled, hoisted, hung, and placed onto the production line. At this time, IPP observed the animal moving air in and out of its mouth and blinking its eyes with rapid, controlled eye movements. The animal was also performing a righting reflex noted by attempts to raise its head in line with its spine. The animal was deemed conscious based on these findings. Plant Manager, Mr. Manuel Ramirez, and (b) (6), were both in the stunning/sticking area and were both notified of the observation. Mr. Ramirez instructed the senior stunning employee to re-stun the animal with the hand-held captive bolt located behind the sticking area. This stunning attempt successfully rendered the animal unconscious noted by a cessation of signs of consciousness. A regulatory control action was taken by applying U.S. Rejected tag #B45936511 to the stunning area.

The FSIS Supervisory Public Health Veterinarian (SPHV) observed the head that was retained at the head station. Two pneumatic captive bolt holes were observed slightly high and to the right of the two-inch diameter used by the establishment to determine adequate placement of the stun. The hand-held captive bolt hole was within the two-inch diameter. A pen was placed in the hole made by the pneumatic captive bolt and the channel tracked to the lateral aspect of the skull.

This is a violation of the FMIA (21 U.S.C.) 603, Regulations 9 CFR 313.15(a)(3) and the HMSA of 1978.

Justification

Currently, your establishment's slaughter process is operating under the terms of a Notice of Suspension Held in Abeyance (NOSHA) as a result of an egregious inhumane handling incident on October 17, 2019. This NROS is being issued for allowing an animal to return to consciousness on the rail, which indicates a failure to follow or adequately implement your systematic approach, and the corrective and preventive measures outlined in your response to the Notice of Suspension (NOS) issued on October 17, 2019.

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 and consciousness, 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) [REDACTED], or the Des Moines District Office, at 515-727-8960.

Sincerely,

THOMAS

Digitally signed by THOMAS BECK
Date: 2020.09.29 14:31:22 -05'00'

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