



Food Safety and  
Inspection Service

October 28, 2020

Raleigh District Office

**EMAIL**

6020 Six Forks Road  
Raleigh, NC. 27609  
Voice: 919-844-8400  
Fax: 844-839-6360

Mr. Jeff Smith, Manager  
Smith Valley Meats, Est. M9979  
246 Church Street  
Rich Creek, VA 24147

## **NOTICE OF SUSPENSION**

Dear Mr. Smith,

This letter confirms the verbal notification given to you on October 27, 2020, at approximately 11:00am, by the Food Safety and Inspection Service (FSIS) Inspection Program Personnel (IPP) of the suspension of the assignment of inspectors for slaughter operations at Smith Valley Meats, Est. M9979, herein after referred to as “your establishment.” This action was initiated in accordance with Title 9 of the Code of Federal Regulations (9 CFR) 500.3, after FSIS determined that your establishment failed to slaughter and handle animals humanely.

### **Background/Authority**

The Federal Meat Inspection Act (FMIA) (Title 21 of the United States Code {21 U.S.C.} 603 et seq.) provides that 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 methods 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 slaughtering 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 establishments 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.

The Humane Methods of Slaughter Act of 1978 (7 U.S.C. 1901 et seq.) provides that 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 therefore declared to be 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.

## **Findings/Basis for Suspension**

At approximately 10:00am on Tuesday, October 27, 2020, an establishment employee attempted to stun a Hereford steer using a .22 magnum rifle. The initial stun was ineffective as the steer remained standing and looking around the room. The employee then proceeded to take a 2<sup>nd</sup> shot with the same rifle; this attempt was also ineffective as the steer remained standing, looking around the room, and moving its head. The employee immediately took a 3<sup>rd</sup> shot with the same rifle which was also ineffective as evidenced by the animal remaining standing. Inspection Program Personnel (IPP) suggested that the employee needed to use a higher caliber firearm to stun the steer, and a second establishment employee went to the front office to inform the establishment manager of the incident. The manager returned to the kill floor with a 30-30 rifle and stunned the steer (4<sup>th</sup> stun attempt), rendering it unconscious. Due to the use of a firearm for stunning, IPP was standing behind a wall next to the kill floor, and she was able to step around the wall to make her observations after each stunning attempt. When examining the skull of the animal, IPP noted that all four (4) shots were incorrectly positioned: low and off-center to the right or left. When the carcass had been shackled, hoisted, and bled, IPP placed U.S. Reject/Retain tag #B30637106 to the squeeze chute in accordance with 9 CFR 313.50(c). IPP then informed the manager that she would be contacting the Supervisory Public Health Veterinarian (SPHV) and the District Office to receive further instructions. After discussion with the SPHV and with the District Office, IPP notified the manager at approximately 11:00am that the District Office would be issuing a Notice of Suspension due to the egregious nature of the incident.

This incident represents a violation of 9 CFR 313.16 (a)(1) which states, in part, that “The firearms shall be employed in the delivery of a bullet or projectile into the animal in accordance with this section so as to produce immediate unconsciousness in the animal by a single shot before it is shackled, hoisted, thrown, cast, or cut.” This incident is considered egregious because there were multiple attempts to stun an animal that resulted in prolonged discomfort and/or excitement of the steer because an immediate and effective corrective action was not taken. The establishment was also issued a Humane Handling (HH) Noncompliance Report (NR) on October 15, 2020, for multiple stunning attempts on a hog; this indicates an ongoing issue with stunning procedures. The establishment does not have a robust systematic approach to humane handling; therefore, a suspension is being initiated.

The suspension action will remain in effect until you provide the Raleigh District Office with adequate written assurances, including corrective actions and further planned preventive measures, to assure that livestock at your establishment are slaughtered humanely. In order to resume inspected operations, you must submit corrective actions to my attention at the District Office. These corrective actions should include at a minimum the following:

1. Identify the assessment process used to determine the nature and cause of the noncompliances.
2. Identify what the assessment revealed as the likely cause of the system failure.
3. Describe the specific actions that will be taken to eliminate the cause of the failures.
4. Describe the future monitoring activities you will use to ensure that changes are implemented and are effective.

You are reminded that, as an operator of a federally inspected plant, you are expected to comply with FSIS regulations and to take appropriate corrective actions to prevent inhumane handling of livestock at your establishment. Please be advised that your failure to respond adequately to these issues may result in our initiating action to withdraw inspection from your establishment. Please also be advised that you have the right to appeal this matter.

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

Geraldine French  
Executive Associate for Regulatory Operations  
Office of Field Operations  
Food Safety and Inspection Service  
United States Department of Agriculture  
1400 Independence Avenue, SW  
Room 3161, South Building  
Washington, DC 20250  
Phone: (202) 205-0001

In addition, you may also request a hearing regarding this determination pursuant to FSIS' Rules of Practice (9 CFR 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, Branch Chief  
Enforcement Operations Branch  
Office of Investigation, Enforcement and Audit  
Food Safety and Inspection Service  
Stop Code 3753, PP3, Cubicle 9-235-A  
1400 Independence Avenue, SW  
Washington, D.C. 20250  
Voice: (202) 418-8872  
Fax: (202) 245-5097

It is our hope that this matter can be resolved quickly. If you have any questions, you may call me at 919-208-2945 or contact me via email at [todd.furey2@usda.gov](mailto:todd.furey2@usda.gov). You may also contact Dr. Arial Thompson, Deputy District Manager, at 919-208-2946. We urge your cooperation and voluntary compliance.

Sincerely,

**ARIAL**

Todd Furey  
District Manager  
Raleigh, NC

 Digitally signed by ARIAL THOMPSON  
Date: 2020.10.28 09:20:51 -04'00'

cc:

P. Bronstein, AA/FO

H. Sidrak, DAA/FO

G. French, EARO/FO

P. Wolseley, EARO/FO

S. Safian, ELD/OIEA

L. Hortert, RD/CID/OIEA

R. Murphy, DDM/RDO/FO

M. Roling, DDM/RDO/FO

A. Thompson, DDM/RDO/FO

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Quarterly Enforcement Report  
Establishment File (Est. M9979)