



November 15, 2023

Clausen Meat Company, Inc.  
Establishment 325M  
PO Box 1826  
Turlock, CA 95381

ELECTRONIC MAIL on November 15, 2023

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Attention: Mr. Ping Lau, President

## NOTICE OF SUSPENSION

This letter serves as official notification by the Food Safety and Inspection Service (FSIS) of our decision to withhold the federal marks of inspection and suspend the assignment of Inspection Program Personnel (IPP) at Clausen Meat Company, Inc. Establishment 325M, located at 19455 Clausen Road, Turlock, CA 95380. This letter follows verbal notification of the suspension action, provided by Dr. Virginia Felix, Acting District Manager (DM), to you at approximately 1:45 pm on November 15, 2023. This action includes your Slaughter Hazard Analysis Critical Control Point (HACCP) processes employed at your establishment.

The decision to institute this enforcement action is in accordance with Title 9 of the Code of Federal Regulations (CFR), Rules of Practice 500.3(b), based on the determination that your establishment did not handle or slaughter animals humanely in accordance with Title 9 CFR 313.5(a)(3), 313.5(a)(1), 313.30(a)(1), and 313.30(a)(3). The evidence of egregious inhumane handling demonstrates failure to comply with the Federal Meat Inspection Act (FMIA) (21 U.S.C. 603), the Humane Methods of Slaughter Act (HMSA) (7 U.S.C. 1901 *et seq.*), and the regulatory requirements (9 CFR Part 313).

### Background/Authority

The FMIA (21 USC 601 *et seq.*) provides it is essential to the public interest that the health and welfare of consumers be protected, by assuring meat products distributed to them are wholesome, not adulterated, and properly marked, and labeled. The Act gives FSIS the authority, as designated by the Secretary of Agriculture, to prescribe rules and regulations describing sanitation requirements for inspected establishments and provide FSIS program personnel the authority to refuse to allow meat/meat food products to be marked, labeled, stamped, or tagged as *inspected and passed*, to prevent the entry of adulterated products into commerce. Furthermore, the FMIA provides FSIS the authority to appoint inspectors to examine and inspect the method by which livestock are slaughtered and handled at slaughtering establishments.

The HMSA 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.

Under the authority of the Acts, FSIS has prescribed rules and regulations required for establishments slaughtering and handling livestock, as required by 9 CFR Part 313. FSIS has also developed the Rules of Practice regarding administrative enforcement, 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, and for filing a complaint to withdraw a grant of inspection. Specifically, 9 CFR 500.3(b) states that FSIS may impose a suspension without providing prior notification due to handling or slaughtering of animals inhumanely.

### **Findings/Basis for Action**

On November 15, 2023, the FSIS Consumer Safety Inspector (CSI) observed your establishment's failure to conduct slaughter of livestock in accordance with the regulatory requirements. At approximately 0505 hours, while verifying Humane Activity Tracking System (HATS) Category VIII (Stunning Effectiveness), the CSI observed a market pig exiting the CO<sub>2</sub> stunner, was breathing, shaking and struggling to get up. The CSI observed that it was rhythmically breathing. Using his flashlight, the CSI observed the pig's eyes had tracking movement. He further noted the CO<sub>2</sub> chamber was packed and overstocked with market hogs as the gondola was having difficulty emptying the pigs. The CSI immediately notified an establishment employee of his observations as another employee hoisted the pig onto the rail. The CSI observed the pig continuing to breathe rhythmically. In response to the flashlight, the pig's eyes moved right to left as it continued tracking the light as well as the CSI's finger, and it was vocalizing by squealing.

An establishment employee retrieved the first back-up electrical stunner located near the sticking stand and applied the stun to the animal, but it malfunctioned and failed to emit any electrical stun. The employee then retrieved a second back-up electrical stunner located next to the CO<sub>2</sub> chamber. The pig continued to vocalize (squeal) as the stun operator made three attempts to stun the animal. However, none of these stunning attempts were effective as the pig continued vocalizing during the process.

The employee then stuck the pig as it continued to vocalize and was conscious. The pig bled out and became insensible with no vocalization, eye tracking or rhythmic breathing.

The CSI notified Mr. Jeff Morgado, Plant Manager, of this noncompliance and that no further slaughter would be allowed due to the inhumane handling of livestock. The CSI placed U.S. Rejected Tag No. B39286350 to the CO<sub>2</sub> chamber so no further slaughter could occur.

This is an egregious noncompliance of humane handling of animals in connection with slaughter. This is a violation in accordance with Title 9 CFR 313.5(a)(3) which states, “*On emerging from the carbon dioxide tunnel, the animals shall be in a state of surgical anesthesia and shall remain in this condition throughout shackling, sticking, and bleeding, except for swine in which death has been induced by the administration of carbon dioxide. Asphyxia or death from any cause shall not be produced in animals before bleeding, except for swine in which death has been induced by the administration of carbon dioxide.*” Your establishment failed to ensure the animal remained in a state of surgical anesthesia throughout shackling, sticking and bleeding.

In addition, this is a violation in accordance with Title 9 CFR 313.5(a)(1) which states, “*The carbon dioxide gas shall be administered in a chamber in accordance with this section so as to produce surgical anesthesia in the animals before they are shackled, hoisted, thrown, cast, or cut. The animals shall be exposed to the carbon dioxide gas in a way that will accomplish the anesthesia quickly and calmly, with a minimum of excitement and discomfort to the animals. In swine, carbon dioxide may be administered to induce death in the animals before they are shackled, hoisted, thrown, cast, or cut.*” Your establishment failed to administer carbon dioxide gas so as to produce surgical anesthesia in the animals before they are shackled, hoisted, thrown, cast, or cut.

This is also a violation in accordance with Title 9 CFR 313.30(a)(1), which states, “*The electric current shall be administered so as to produce, at a minimum, surgical anesthesia, i.e., a state where the animal feels no painful sensation. The animals shall be either stunned or killed before they are shackled, hoisted, thrown, cast, or cut. They shall be exposed to the electric current in a way that will accomplish the desired result quickly and effectively, with a minimum of excitement and discomfort.*” Your establishment failed to administer an electric current so as to produce surgical anesthesia, i.e., a state where the animal feels no painful sensation.

Furthermore, this is a violation in accordance with Title 9 CFR 313.30(a)(3), which states, “*The quality and location of the electrical shock shall be such as to produce immediate insensibility to pain in the exposed animal.*” Your establishment failed to administer an electrical shock such as produce immediate insensibility.

This constitutes failure to adhere to the regulatory requirements of the humane handling and slaughter of livestock, as required by the Federal Meat Inspection Act, 21 U.S.C. 603(b), the Humane Methods of Slaughter Act, and the regulations promulgated thereunder.

On September 9, 2004, FSIS published "*Humane Handling and Slaughter Requirements and the Merits of a Systematic Approach to Meet Such Requirements*" in the Federal Register (69 FR 54625). On September 24, 2020, FSIS released FSIS Directive 6900.2 Revision 3, entitled, "*Humane Handling and Slaughter of Livestock.*" Additionally, on October 23, 2013, FSIS introduced new guidance, titled "*FSIS Compliance Guide for a Systematic Approach to the Humane Handling of Livestock.*" Within the guidance material is information intended to better ensure the humane treatment of livestock presented for slaughter. The guidance material provides a set of practices designed to minimize excitement, discomfort, and accidental injury regarding the humane handling of livestock to include the four components of a robust systematic approach to humane handling.

When an establishment maintains a robust humane handling program, FSIS can exercise regulatory discretion when an inhumane handling or slaughter incident is observed. Although your establishment has previously developed and implemented a systematic approach to humane handling that was considered robust, you have failed to effectively implement your program accordingly.

Specifically, your written program titled “*Robust Systematic Approach to Humane Handling SOP 107 – CO<sub>2</sub> Stunning and Backup Stunning*,” states that the “*electrodes for the electric stunner backup units are cleaned daily and checked for operations before slaughter begins each day, recorded on the daily maintenance log.*” Your approved hours of operation are 3:30 am to 12:00 pm, Monday through Friday. However, in review of your “*Robust Systematic Approach to Humane Handling Electrical Stun Box and Captive Bolt Maintenance Log*,” from October 9, 2023, to November 14, 2023, your establishment is not checking the units prior to operations. However, your written program, as stated above, requires that the units will be checked “*before slaughter begins each day.*” Furthermore, there are no checks recorded on the log for today, November 15, 2023, indicating that your employees did not check the electric stunner backup units at all today. Your establishment is not implementing or maintaining the procedures developed in your robust humane handling program, and therefore you do not have a well-functioning system in place.

### **Summary and Conclusion**

Provisions of the FMIA outline FSIS’ ability to refuse to render inspection and indefinitely withdraw inspection from an establishment, provided the establishment is afforded the right to an administrative hearing, when conditions exist where the slaughter and/or handling of livestock was not by a method in accordance with the Act(s). Evidence demonstrates your failure to meet regulatory requirements addressed in 9 CFR 313.5(a)(3), 313.5(a)(1) 313.30(a)(1), and 313.30(a)(3), constituting a violation of the humane slaughter requirements, and supporting the conclusion that your handling of livestock violated the provisions of the FMIA and HMSA.

Please provide a written response, inclusive of written corrective action and preventative measures, by addressing the following:

- Evaluate and identify the nature, cause of the incident.
- Describe the specific actions taken to eliminate the cause of the incident and prevent future recurrences.
- Describe specific monitoring activities planned to ensure future compliance.
- Provide any supporting documentation and records maintained and/or associated with the proposed corrective actions and preventative measures.

A determination of further administrative action will be made upon receipt and review of your submitted corrective actions and preventative measures. You are reminded that, as an operator of a federally inspected establishment, you are expected to comply with FSIS regulations and to take appropriate corrective actions to prevent the production of or adulterated products 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.

### Appeal and Hearing Rights

You have the right to appeal this matter and can do so by contacting:

Sherri Johnson,  
Executive Associate for Regulatory Operations  
Office of Field Operations  
Food Safety and Inspection Service  
United States Department of Agriculture  
1400 Independence Avenue, SW  
SB, Room 3162  
Washington, DC 20250  
Email: [sherri.johnson@usda.gov](mailto:sherri.johnson@usda.gov)  
Phone: (202) 379-6196

Pursuant to 9 CFR 500.5(d), you may also request a hearing regarding this determination. 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, please contact:

Scott C. Safian, Director  
Enforcement Operations Staff (EOS)  
Office of Investigation, Enforcement and Audit (OIEA)  
Food Safety and Inspection Service  
United States Department of Agriculture  
1400 Independence Avenue, SW  
Stop Code 3753, SB - Room 2148  
Washington, DC 20250  
Telephone: (202) 418-8872  
Facsimile: (202) 245-5097  
E-mail: [AEBCorrespondence@usda.gov](mailto:AEBCorrespondence@usda.gov)

If you have any questions, please call the Alameda District Office at (510) 769-5712, by fax at (844) 622-0081, or via electronic mail at [AlamedaDistrictOffice@usda.gov](mailto:AlamedaDistrictOffice@usda.gov).

Sincerely,

*/s/ Dr. Virginia Felix  
Deputy District Manager  
(for)*

Virginia Felix, DVM  
Acting District Manager

Mr. Ping Lau, President  
Clausen Meat Company, Inc. 325M

Notice of Suspension  
November 15, 2023

cc: S. Johnson, EARO  
(b) (6) Humane Handling Enforcement Coordinator  
S. Smith, OIEA Regional Director  
G. Abreu, DDM  
F. Gillis, DDM  
(b) (6) SEIAO  
(b) (6) DCS  
(b) (6) DVMS  
(b) (6) FLS  
(b) (6) EIAO  
IIC at Est. M325  
FO/Quarterly Reports