



United States Department of Agriculture

Food Safety and
Inspection Service

Raleigh District Office

6020 Six Forks Road
Raleigh, NC. 27609
Voice: 919-844-8400
Fax: 1-844-839-6359

February 21, 2023

EMAIL

Mr. Michael Wagner, Owner/President
Wagner Meats, LLC, Est. M10804
604 North Main Street
Mt. Airy, MD 21771

NOTICE OF REINSTATEMENT OF SUSPENSION

Dear Mr. Wagner,

This letter confirms the verbal notification given on February 21, 2023, at approximately 1057 hours, by the Food Safety and Inspection Service (FSIS) Inspection Program Personnel (IPP) of the reinstatement of suspension of the assignment of inspectors for slaughter operations at Wagner Meats, LLC, Est. M10804, 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 1043 hours on Tuesday, February 21, 2023, at your establishment, IPP identified an egregious humane handling noncompliance in which a market hog regained consciousness after being stunned, shackled, and hoisted. A market hog was brought to the knock box where an establishment employee applied an electrical stun (using the head-only stunning technique) to render the hog unconscious. After the initial stun attempt, the hog appeared to be unconscious, so it was shackled and hoisted in the air. The employee attempted to stick the animal for bleeding, but after the first stick, the hog began vocalizing and moving suddenly, exhibiting a righting reflex. The establishment employee proceeded to stick the hog several more times to achieve a successful bleed. The hog continued to vocalize, exhibit the righting reflex, and exhibit tracking eye movement. After consulting with the SPHV, IPP took a regulatory control action by placing US Retain/Reject tag #B30289309 on the knock box gate, and at approximately 1057 hours, notified the Owner and Floor Supervisor of the cessation of inspected slaughter.

This incident represents a violation of 9 CFR 313.30(a)(4) which says in part “The stunned animal shall remain in a state of surgical anesthesia through shackling, sticking, and bleeding.” This incident is considered egregious because the hog regained consciousness after being stunned. The establishment has a systematic approach for Humane Handling; however, it is not considered robust because the establishment is currently operating under an abeyance for a previous HH incident.

The reinstated 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:

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
South Building, Room 3154
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
Director, Enforcement Operations Staff
Office of Investigation, Enforcement and Audit
Food Safety and Inspection Service
United States Department of Agriculture
Stop Code 3753, SB - Room 2148
1400 Independence Avenue, SW
Washington, DC 20250
Office: (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 919-326-5281 or contact me via email at todd.furey2@usda.gov. You may also contact Dr. Roger Murphy, Deputy District Manager, at 919-326-5283. We urge your cooperation and voluntary compliance.

Sincerely,

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THOMPSON

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THOMPSON
Date: 2023.02.21 17:38:21
-05'00'

Todd Furey
District Manager
Raleigh, NC

cc:

S. Johnson, EARO/FO

P. Wolseley, EARO/FO

S. Safian, ELD/OIEA

L. Hortert, RD/CID/OIEA

T. Furey, DM/RDO/FO

R. Murphy, DDM/RDO/FO

M. Roling, DDM/RDO/FO

A. Thompson, DDM/RDO/FO

(b) (6), DCS/RDO/FO

(b) (6), DVMS/RDO/FO

(b) (6), SEIAO/RDO/FO

(b) (6), FLS/RDO/FO

(b) (6), SPHV/RDO/FO

(b) (6), SPHV/RDO/FO

(b) (6), SPHV/RDO/FO

(b) (6), CSI/RDO/FO

Quarterly Enforcement Report

Establishment File (Est. M10804)