



July 11, 2023

Food Safety and
Inspection Service

Office of Field Operations
Jackson District Office
713 S Pear Orchard Rd.
Plaza 2, Suite 402
Ridgeland, MS 39157

Harmon Brothers Meats, Inc.
Est. M/P7356
425 Ambrose Road
Warsaw, Kentucky 41095
harmonbrothersmeats@gmail.com
859-567-1212

ELECTRONIC MAIL on July 11, 2023
FEDEX TRACKING NUMBER 772701569938

Attention: Mr. Dave Harmon, Owner

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 Harmon Brothers Meats, Inc., Est. M/P7356, located at 425 Ambrose Road, Warsaw, KY. This letter follows verbal notification of the suspension action, provided by Dr. Erin Moses, Acting DDM, to Mr. Dave Harmon, Owner, at approximately 11:00 AM CST on July 11, 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. The evidence 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 July 11, 2023, at approximately 0935 hours EST, while performing the Livestock Humane Handling task at Harmon Brothers Meats, Inc., Est. M/P7356, in Warsaw, KY, the Consumer Safety Inspector (CSI) made the following observation. Your establishment personnel moved a dairy cow, approximately 1200 lbs., into the knocking box and restrained with head gate. Your stun operator made an initial stun attempt with a firearm (22 Magnum), that was observed to contact the animal, but was ineffective as evidenced by the animal remaining standing and looking around. Your stun operator then attempted two stuns with a hand-held captive bolt device (HHCB), but the device did not fire upon reloading each time. There was a delay as your stun operator disassembled and reassembled the HHCB, and then a third attempt with the HHCB was effective at rendering the animal insensible, and it remained so thereafter. The CSI placed USDA Reject tag #B41942334 on the knocking box and notified Regulatory Manager (b) (6) of the observed non-compliance and of the regulatory control action.

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. You do not currently maintain a written humane handling program for consideration.

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 313.16(a)(1) and 9 CFR 313.16(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:

Paul Wolseley
Acting Assistant Administrator
Office of Field Operations
Food Safety and Inspection Service
United States Department of Agriculture
1400 Independence Avenue, SW
Room 344E Whitten Building
Washington, DC 20250
Email: paul.wolseley@usda.gov
Phone: (202) 937-4761

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
Stop Code 3753, SB - Room 2148
1400 Independence Avenue, SW
Washington, DC 20250
Telephone: (202) 418-8872
Facsimile: (202) 245-5097
E-mail: AEBCorrespondence@usda.gov

Dave Harmon, Owner
Harmon Brothers Meats, Inc., Est. M/P7356

Notice of Suspension
July 11, 2023

If you have any questions, please contact Dr. Larry Davis via telephone at (601) 863-4206 or via electronic mail at larry.davis4@usda.gov. Additionally, you can contact the Jackson District Office at (601) 965-4312 or by fax at (601) 965-5901.

Sincerely,

ERIN Digitally signed
by ERIN MOSES
MOSES Date: 2023.07.11
13:09:15 -05'00'

Dr. Larry Davis
District Manager

Dave Harmon, Owner
Harmon Brothers Meats, Inc., Est. M/P7356

Notice of Suspension
July 11, 2023

Cc: Mr. Paul Wolseley, Acting Assistant Administrator
(b) (6), Humane Handling Enforcement Coordinator
Mr. Larry Hortert, OIEA Regional Director
Dr. Larry Davis, DM
Dr. Kermit Harvey, DDM
Ms. Cheryl Henry, DDM
(b) (6), SEIAO
(b) (6), DCS
(b) (6), DVMS
Dr. Erin Moses, FLS/Acting DDM
(b) (6), SPHV at Est. M/P7356
(b) (6), CSI at Est. M/P7356
FO/Quarterly Reports