



United State  
Department of  
Agriculture

Food Safety  
and Inspection  
Service

Office of  
Field Operations

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March 26, 2020

**ELECTRONIC COPY PROVIDED  
AND DELIVERED BY COURIER**

Mr. Steve Sytsma  
Establishment M46184  
Steve & Laura, LLC  
1011 144th Avenue  
Wayland, MI 49348

## **NOTICE OF REINSTATEMENT OF SUSPENSION**

Dear Mr. Sytsma:

This letter confirms verbal notification provided to your establishment representatives by Dr. Tamara Davis, Deputy District Manager (DDM), on March 26, 2020, at approximately 1050 hours EDT, of the FSIS decision to suspend the assignment of inspectors from your slaughter process at Steve & Laura, LLC, establishment M46184, located at 1011 144<sup>th</sup> Avenue, in Wayland, Michigan. This action is based on your establishment's failure to effectively implement humane methods of slaughtering and handling animals in a manner that complies with the regulatory requirements prescribed by the Federal Meat Inspection Act (FMIA) and Humane Methods of Slaughter Act (HMSA). Your establishment is in violation of Title 9 of the Code of Federal Regulations (9 CFR) Section 313.16(a)(1) and 313.16(b)(1)(iii) regarding the humane slaughter of livestock. The Rules of Practice, 9 CFR 500.3(b), specify that FSIS may issue a suspension without providing prior notification if an establishment is handling or slaughtering animals inhumanely.

### **Background and Authority**

The Federal Meat Inspection Act (21 U.S.C. 603 Section 3(b)) states, "*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 method 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 inspection 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 establishment 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.*" In addition, under prohibited acts 21 U.S.C. 610 sec 10 (b), "*No person, establishment or corporation shall, with the respect to any cattle, sheep, swine, goats, horses, mules, and other equines, or any carcasses, parts of carcasses, meat or meat food products of any such animals slaughter or handle in connection with slaughter any such animals in any manner not in accordance with sections 1901 to 1906 of Title 7.*"

The Humane Methods of Slaughter Act, 7 USC 1901, states, "*The 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 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."*

The Humane Methods of Slaughter Act, 7 USC 1902, states, "No method of slaughtering or handling in connection with slaughtering shall be deemed to comply with the public policy of the United States unless it is humane." When an egregious situation has been observed and identified, FSIS can refuse to render inspection and indefinitely withdraw inspection from an establishment provided the establishment is afforded the right to an administrative hearing.

Under the authority of the above Acts, FSIS has prescribed rules and regulations required for establishments producing meat and poultry products, including the requirements pertaining to the humane slaughter of livestock, as required by 9 CFR 313, and other matters. FSIS has also developed Rules of Practice regarding enforcement, within in 9 CFR 500. The Rules of Practice describe the types of enforcement action that FSIS may take a withholding action and/or suspension, with or without prior notification, and for filing a complaint to withdraw a Grant of Federal Inspection.

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

On March 26, 2020, at approximately 0950 hours, the Consumer Safety Inspector (CSI), was standing in the designated safe place during the procedure for stunning cattle with a firearm. A steer was located within an approximately 870 ft<sup>2</sup> holding pen with no additional measures to restrict the movement of the steer. The CSI heard the initial shot and observed the steer remained conscious, standing within the pen, with the head down, and circling. The employee was prepared to follow-up with a corrective action stun; however, the second attempt was delayed due to the continued movement of the animal. Once the movement subsided to the point where the employee could place the second shot, the shot was placed and effectively stunned the animal. The CSI informed the employee that the process was under regulatory control and applied U.S. Rejected tag number B26576361.

These actions demonstrate a failure to comply with the regulatory requirements of 9 CFR 313.16(a)(1), which specifies: "(1) *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. The animal shall be shot in such a manner that they will be rendered unconscious with a minimum of excitement and discomfort,*" and 9 CFR 313.16(b)(1)(iii), which specifies, in part, "*The stunning area shall be so designed and constructed as to limit the free movements of animals sufficiently to allow the operator to locate the stunning blow with a high degree of accuracy.*"

The occurrence of this inhumane handling incident constitutes an egregious violation of the humane handling requirements specified within the provisions of 21 U.S.C. 603, Section 3 (b) of the FMIA, and 7 U.S.C. 1901 of the HMSA.

You were currently operating within the abeyance period for a Notice of Suspension (NOS), issued on December 12, 2019, for a similar egregious incident. Briefly, on December 12, 2019, the CSI was observing the procedure for firearm stunning of cattle. The steer was confined to an approximately 500 ft<sup>2</sup> holding pen without any additional means to restrict free movement. An employee using a .22 magnum caliber rifle attempted to stun the steer at a distance of several feet. The shot struck the animal in the head, and the animal remained standing, vocalized, and began running within the pen. A second employee, also wielding a .22 magnum caliber rifle, was prepared to administer a second shot; however, the animal continued to

freely move within the pen. The second employee attempted to stun the animal when the head of the moving animal presented itself. The shot was fired from a distance of approximately two feet and struck the animal in the head. The animal remained conscious and continued to move freely within the pen. The first employee then moved into a different position and when the head of the moving animal presented itself, fired a third and effective shot, rendering the animal unconscious at that time. You were issued a NOS at that time, citing failure to comply with the FMIA, HMSA, and 9 CFR 313.16(a)(1) and 313.16(b)(1)(iii).

You provided written corrective actions, and the NOS was placed into abeyance on January 16, 2020. Although the abeyance letter provided for the verification period enabling you to demonstrate compliance with the applicable regulations, it was noted that your corrective actions did not provide any measures to comply with 9 CFR 313.16(b)(1)(iii), placing your establishment at risk for failure to comply with this regulatory requirement in the future. Specifically, you do not have any means as part of the physical design of the facility that can prevent animals from freely moving so that you can accurately place the shot and effectively stun the animal.

Previously, you were provided a copy of the FSIS compliance guide, titled MOBILE SLAUGHTER UNIT COMPLIANCE GUIDE. The first paragraph on page 9 describes the requirements and expectations for humane handling to include, "*The MSU (Mobile Slaughter Unit) operator is responsible for meeting all regulatory requirements for humane slaughter of livestock and should carefully consider the design of any holding pens, driveways, and ramps available at any specific operational site, as well as the methods used to adequately restrain animals and produce immediate insensibility upon stunning.*"

### **Summary and Conclusion**

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 Notice (54 Fed. Reg. 54625). On August 15, 2011, FSIS released FSIS Directive 6900.2 Revision 2, 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.

During the abeyance period for an enforcement action, regulatory discretion regarding robustness is not a consideration. Prior to the NOS issued on December 12, 2019, your written plan met these FSIS guidelines. However, because you were operating within the abeyance period for a similar egregious incident, the NOS will be reinstated at this time.

Please provide this office with a written response to address the regulatory issues identified within this letter. At a minimum, your corrective actions should address the following:

1. Identify the specific reason(s) why the events described occurred.
2. Describe the specific action(s) that will be implemented to eliminate the cause of the incident and prevent future recurrences.
3. Describe the specific future monitoring activity or activities that your establishment will employ to ensure the actions implemented are effective.
4. Provide any supporting documentation and records maintained and associated with your proposed corrective actions and preventive measures.

Please be advised that you have the right to appeal this matter. If you wish to appeal this action, contact:

Michael Watts  
Executive Associate for Regulatory Operations  
USDA, FSIS, OFO  
Room 3168 - South Building  
1400 Independence Avenue, SW  
Washington, DC 20250  
Telephone: (202) 205-0194

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  
Stop Code 3753, PP3, Cubicle 9-205  
355 E. Street SW  
Washington, DC 20024-3221  
Telephone: (202) 418-8872  
Fax: (202) 245-5097

If you have questions regarding this matter, you may contact (b) (6) (b) (6) (b) (6); or you may contact this office at (630) 620-7474 or by fax at (630) 620-7599.

Sincerely,

*Jamara M. Davis, DVM*  
/FOR

Paul V. Wolseley  
District Manager  
Chicago District