



United States Department of Agriculture

Food Safety and
Inspection Service
Office of Field
Operations
Jackson District Office
713 S Pear Orchard Rd,
Suite 402
Ridgeland, MS 39157

September 9, 2019

**Via Email: marblecitymeats@gmail.com
and FedEx Tracking # 776192356270**

Mr. Matthew Lawrence, Owner/HACCP Coordinator
Marble City Meats, LLC, Est. M46070
514 Odena Road North
Sylacauga, AL 35150

NOTICE OF SUSPENSION

Dear Mr. Lawrence:

On September 9, 2019, a "Notice of Suspension" was issued to suspend the assignment of inspectors for your federal slaughter activities at Marble City Meats, LLC, 514 Odena Road North, Sylacauga, AL 35150, Est. M46070. This action was based on your establishment's failure to handle livestock humanely according to 9 CFR Part 313.

Background/Authority

The Federal Meat Inspection Act (FMIA) (21 U.S.C. 603 *et seq*) 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 amenable species 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 establishments by any method not in accordance with the Act of August 27, 1958 (72 Stat. 862; 7 U.S.C. 1901-1906) 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.* This Act also gives FSIS personnel the right to examine and inspect all carcasses and parts of carcasses that are further treated and prepared, and the right to access and examine establishment records.

Under the authorities of the Act, FSIS has prescribed rules and regulations required for establishments producing meat products, including the requirements pertaining to Humane Slaughter of Livestock (9 CFR Part 313) and other matters. Specifically, your establishment failed to meet the following regulatory requirements as specified by 9 CFR § 313.15 (a) (1) and (3) which states, "*(a) Application of stunners, required effect; handling. (1) The captive bolt stunners shall be applied to the livestock in accordance with this section so as to produce immediate unconsciousness in the animals before they are shackled, hoisted, thrown, cast, or cut. The animals shall be stunned in such a manner that they will be rendered unconscious with a minimum of excitement and discomfort. (3)*

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Immediately after the stunning blow is delivered the animals shall be in a state of complete unconsciousness and remain in this condition throughout shackling, sticking, and bleeding". And 9 CFR § 313.16(a)(1) and (3) which states, "(a)Utilization of firearms, required effect; handling. (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. (3) Immediately after the firearm is discharged and the projectile is delivered, the animal shall be in a state of complete unconsciousness and remain in this condition throughout shackling, sticking, and bleeding".

Humane Methods of Slaughter Act: Humane Methods of Slaughtering Act, 7 U. S. C. 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 slaughtering operations; brings about improvement of products and economies in slaughtering operations; and produces other benefits for producers, processors and consumers which tends 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 (7 U.S.C. 1901).*"

FSIS has prescribed Rules of Practice regarding enforcement (9 CFR Part 500). The Rules of Practice describes the types of enforcement actions that FSIS may take including procedures for taking a withholding action and/or suspension, with or without prior notification, and for filing a complaint to withdraw a grant of Federal inspection. 9 CFR § 500.3 (b) states, "*FSIS also may impose a suspension without providing the establishment prior notification because the establishment is handling or slaughtering animals inhumanely.*"

Findings/Basis for Action

On Monday, September 9, 2019, at approximately 11:35 AM, while performing a Humane Handling task, "Category 8" of the last inspected animal of the day, the IIC observed the Establishment Owner/HACCP Coordinator Mr. Matthew Lawrence performing stunning procedures on a Kune-Kune pig over the age of two. The establishment uses a hand-held captive bolt (HHCB) as their primary and secondary stunning method. The first stun attempt was ineffective. The establishment owner immediately retrieved the backup HHCB and immediately conducted a second stun. The second stun attempt was also ineffective to render the animal insensible. The owner reloaded the primary HHCB and issued a third stun which was also ineffective. The owner reloaded the backup HHCB and delivered a fourth stun which again failed to render the animal insensible. The owner then retrieved a .22 caliber rifle and attempted a fifth attempt with the rifle and was ineffective to render the animal insensible to pain. Finally, on the second attempt with the rifle (6th overall attempt), the animal was rendered unconscious and insensible to pain. The IIC tagged the knocking box with U.S. Reject Tag #B-45 308594 and contacted his Frontline Supervisor.

On September 9, 2019, at approximately 1:30 PM CDT, the DDM from the Jackson District Office, contacted you telephonically and informed you that the withholding action to suspend the federal slaughter activities at your facility was sustained. You are herein receiving written notification of the suspension of the assignment of inspectors for your federal slaughter activities with this letter.

The occurrence of this inhumane handling incident constitutes a violation of the humane slaughter requirements and supports a conclusion that your handling of livestock violated the provisions of 21

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U.S.C. 603, Section 3 (b) of the FMIA, and 7 U.S.C. 1901 and 1902 of the Humane Methods of Slaughter Act of 1978. You failed to meet the regulatory requirements of 9 CFR § 313.15 (a) (1 and 3) and 9 CFR § 313.16 (a) (1 and 3). The suspension of the assignment of inspectors for federal slaughter activities will remain in effect until you provide written corrective actions and preventive measures to the Jackson District Office, to assure that the animals at your establishment will be handled humanely in accordance with the Humane Methods of Slaughter Act and regulations promulgated there under.

Please provide this office with a written response concerning this Notice of Suspension by addressing the following:

- Evaluate and identify the root cause of the incident.
- Explain the specific reason(s) why the event occurred.
- Describe the specific actions taken to eliminate the root cause of the incident.
- Describe specific planned actions that you will take to prevent future recurrences.

Please provide associated records that include monitoring and verification activities that your establishment will use to ensure that the changes made are effectively implemented. We will determine further action, if any, based on your response(s).

As a federally inspected establishment, you are expected to comply with 9 CFR § 313.15 (a) (1 and 3) and 9 CFR § 313.16 (a) (1 and 3) of the regulations and all other requirements concerning the humane slaughter of livestock. In accordance with 9 CFR § 500.3 (b), we are implementing a suspension of the assignment of inspectors for your federal slaughter activities due to inhumane handling. Establishment management should clearly understand the seriousness of repetitive humane handling violations which could lead to Agency actions, that could result in actions to withdraw the grant of inspection.

You may appeal this action by contacting:

Executive Associate for Regulatory Operations
Office of Field Operations
United States Department of Agriculture
Room 3157 - South Building
1400 Independence Avenue SW
Washington, D. C. 20250-3700
Telephone: (202) 720-3697
Facsimile: (202) 720-5439

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 9 CFR § 500.5 (d), should you request a hearing, FSIS will file a complaint that will include a request for an expedited hearing. You may request a hearing by contacting:

Mailing Address:

Scott C. Safian, Director
Enforcement and Litigation Division
Office of Investigation, Enforcement, and Audit
Food Safety Inspection Service

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United States Department of Agriculture
Stop Code 3753, PP III, Cubicle 9-235A
1400 Independence Avenue SW
Washington, D. C. 20250

Or

Physical (Courier) Address:

Scott C Safian, Director
Enforcement and Litigation Division
Office of Investigation, Enforcement and Audit
Food Safety Inspection Service
United States Department of Agriculture
Patriots Plaza III, 9th Floor, Cubicle 9-235A
355 E. Street, SW
Washington, D. C. 20024-3221
Telephone: (202) 418-8872
Facsimile: (202) 245-5097

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 inhumane treatment of animals. We urge your voluntary cooperation and compliance.

If you have any questions regarding this matter, please contact the Jackson District Office at (601) 965-4312.

Sincerely,



Dr. Larry Davis
District Manager
Jackson District Office