



United States Department of Agriculture

**CERTIFIED RETURN-RECEIPT
REQUESTED**

Mr. Keith Wright, Plant Owner
Brooksville Meat Fabrication, Est. M9173
80 Liberty Drive
Brooksville, Kentucky 41004

September 9, 2013

NOTICE OF SHOW CAUSE

Dear Mr. Wright:

This Notice of Show Cause is to offer you the opportunity to provide information as to why the Food Safety and Inspection Service (FSIS) should not initiate action to withdraw Federal inspection services from Brooksville Meat Fabrication (Brooksville), pursuant to the Federal Meat Inspection Act (FMIA) (21 U.S.C. 601 et seq.), the Humane Methods of Slaughter Act (HMSA) (7 U.S.C. 1901 et seq.), and regulations issued thereunder (9 C.F.R. 313.2, 313.15, 313.16, 500.6). This action is based on repetitive violations of humane handling and slaughter requirements that have led FSIS to take multiple enforcement actions at Brooksville.

This letter provides you with information on FSIS authority, the action under consideration, the facts supporting the proposed action, and information on how to respond to this Notice.

Agency Authority

The FSIS is the public health agency in the U.S. Department of Agriculture responsible for ensuring that the nation's commercial supply of meat, poultry, and egg products is safe, wholesome, and correctly labeled and packaged. It is the mission of FSIS to protect the consuming public by assuring that meat and meat food products produced at official establishments and distributed in commerce are produced in accordance with the FMIA and the HMSA. These Acts give FSIS the authority to prescribe rules and regulations that describe the conditions under which inspection services will be provided, and pursuant to which, application of the marks of inspection will be permitted. Copies of the Acts are enclosed for your information and review.

To carry out its public health responsibilities, FSIS administers a comprehensive inspection and enforcement program which includes examination of live animals prior to slaughter, inspection of all carcasses used for human food, and inspecting facilities where meat products are produced or stored. When a violation of the HACCP, SSOP, or humane slaughter or handling in connection with slaughter requirements is observed, FSIS inspection personnel document the incident on a Noncompliance Record (NR). The NR notifies the establishment of the noncompliance and that it

Food Safety and Inspection Service
Office of Investigation, Enforcement and Audit
Enforcement and Litigation Division
Stop Code 3753, PP3, Cubicle 8-210C
1400 Independence Avenue, SW
Washington, D.C. 20250
Voice: (202) 418-8872 Fax: (202) 245-5097

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should take action to remedy the situation and prevent recurrence. Should FSIS personnel document serious or repetitive sanitation, food safety, humane handling or other violations, FSIS may take action to control products and may take enforcement action under the FSIS Rules of Practice (9 CFR Part 500). The FSIS Rules of Practice define the type of administrative enforcement actions FSIS takes, the conditions under which these actions are appropriate, and the procedures FSIS will follow taking these actions. These actions include regulatory control action, withholding action, and suspensions. FSIS regulations provide notice to establishments of FSIS enforcement actions, criteria, and processes, and ensure that all establishments are afforded due process.

When the case history and evidence show an inability or unwillingness by the federal establishment to meet food safety requirements, or to successfully implement corrective or preventative measures to prevent the production and shipment of adulterated product, repetitive or egregious humane handling or slaughter violations, or otherwise ensure public health, FSIS has statutory and regulatory authority to initiate action to withdraw grants of Federal inspection service. The FSIS Rules of Practice (9 CFR 500.6) specify the situations under which FSIS can move to withdraw inspection service. These include insanitary conditions; failure of the establishment to maintain required SSOP and HACCP systems; production and shipment of adulterated product; interference, intimidation or assault on agency personnel; and, inhumane slaughter and handling of livestock.

Violation History

Our records show that, during the past year, FSIS has suspended inspection service and documented numerous noncompliance records at Brooksville for statutory and regulatory violations and repeated failure to comply with humane slaughter and handling requirements. Documented enforcement action and noncompliance includes:

- April 30, 2013, suspension for failure to slaughter and handle animals humanely when an animal was not rendered unconscious and insensible to pain with a single shot;
- June 19, 2013, reinstatement of suspension for failure to slaughter and handle animals humanely when an animal was not rendered unconscious and insensible to pain with first shot;
- August 9, 2013, reinstatement of suspension for failure to slaughter and handle animals humanely when an animal was not rendered unconscious and insensible to pain with first shot; and
- NRs written on November 11, November 16, November 27, 2012; and July 30, August 7, August 9, and August 26, 2013, for humane handling non-compliances involving failure to provide water, food, and stunning mishaps.

Actions under Consideration and How to Present Your Views

These repeated and egregious incidents of humane slaughter and handling violations raise questions regarding Brooksville's ability to implement corrective and preventative measures, effectively train employees, or make other systematic or management changes to ensure compliance with FSIS statutory and regulatory requirements and the welfare of animals handled in connection with slaughter. Based on this history of violations, FSIS is evaluating further action to withdraw inspection service from Brooksville.

Before we make a decision regarding this matter, we want to give you an opportunity to provide information as to why FSIS should not initiate action to indefinitely suspend or withdraw inspection service, specificity as to the management actions Brooksville has taken or will take to ensure compliance with FSIS requirements and provide the basis for FSIS to defer further administrative action at this time. You may present this information in writing or orally. Written views must be submitted within ten days after you receive this letter. Please submit your response by fax or email to:

Fax Number: (202) 245-5097
E-mail: AEBCorrespondence@fsis.usda.gov

Alternatively, you can submit your response by private courier or mail to the attention of:

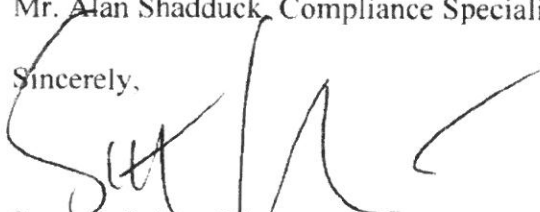
Physical address:
(for courier) Scott C. Safian, Director
 Enforcement and Litigation Division
 Office of Investigation, Enforcement and Audit
 Food Safety and Inspection Service
 United States Department of Agriculture
 Patriots Plaza III, 8th Floor, Cubicle 8-210C
 355 E Street, SW
 Washington, DC 20024-3221

Mailing Address: Scott C. Safian, Director
 Enforcement and Litigation Division
 Office of Investigation, Enforcement and Audit
 Food Safety and Inspection Service
 United States Department of Agriculture
 Stop Code 3753, PP III, Cubicle 8-210C
 1400 Independence Avenue, SW
 Washington, DC 20250

To give an oral response you must call our office within five days of receipt of this letter, at (202) 418-8872, to schedule an appointment to present your views.

Any response that you provide will be taken into consideration before a final decision on the disposition of this matter. If you have any questions regarding this matter, please feel free to contact Mr. Alan Shadduck, Compliance Specialist, at (402) 437-5758, if you have any questions.

Sincerely,

A handwritten signature in black ink, appearing to read 'Safian', with a long horizontal stroke extending to the right.

Scott C. Safian, Director
Enforcement and Litigation Division
Office of Investigation, Enforcement and Audit



United States Department of Agriculture

Food Safety and
Inspection Service

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

DATE: November 19, 2013

TO: Scott Safian, Director, USDA FSIS OIEA ELB

THRU: Dr Armia Tawadrous, EARO, USDA FSIS OFO

Dr Paul A Resweber 11/19/13

FROM: Dr Paul A. Resweber, District Manager, USDA FSIS OFO JDO

SUBJECT: Brooksville Meat Fabrication Est. 09173M

Mr. Keith Wright, Plant Owner
80 Liberty Drive
Brooksville, KY 41004

AER CASE Files: 90-14-R001 3rd Reinstatement of Suspension
90-13-R033 2nd Reinstatement of Suspension
90-13-R025 1st Reinstatement of Suspension
90-13-S132 Initial Suspension

Mr Safian:

In accordance with FSIS Directive 8010.5, Revision 3, 11/5/12, VIII., 1., c., OFO is preparing a transmittal memo to the your attention as Director of ELB stating the recommended action of withdrawal of inspection service for Brooksville Meat Fabrication Est. 09173M due to four egregious humane handling violations and suspensions between April 30, 2013 and October 9, 2013 slightly over 5 months. The Est. 9173 M remains in the 3rd reinstatement and the 4th suspension as of this writing as the plant has yet to proffer acceptable corrective and preventive measures to OFO.

This is the basic history of this establishment:

On April 30, 2013, a "Notice of Suspension" was issued to suspend the assignment of inspectors at Brooksville Meat Fabrication Est. 09173M.

On May 7, 2013, a "Notice of Suspension Held in Abeyance" was issued to the establishment. In the "Notice of Suspension Held in Abeyance" the establishment was made aware that failure to comply with regulatory requirements or to effectively

implement the establishment's proposed actions that formed the basis for the abeyance could result in the immediate suspension of inspection at the establishment.

In addition, on June 19, 2013, a "Notice of Reinstatement of Suspension" was issued to suspend the assignment of inspectors at the establishment for failure to handle livestock humanely. On June 21, 2013, a "Notice of Suspension Held in Abeyance" was issued to the establishment. In the "Notice of Suspension Held in Abeyance" the establishment was again made aware that failure to comply with regulatory requirements or to effectively implement the establishment's proposed actions that formed the basis for the abeyance could result in the immediate suspension of inspection at the establishment.

Subsequently, on August 9, 2013, a "Notice of Suspension Held in Abeyance" was again issued to the establishment. In the "Notice of Suspension Held in Abeyance" the establishment was made again aware that failure to comply with regulatory requirements or to effectively implement the establishment's proposed actions that formed the basis for the abeyance could result in the immediate suspension of inspection at the establishment.

Additionally, on September 9, 2013, the establishment was issued a "Notice of Show Cause" letter from FSIS Office of Investigation, Enforcement and Audit—Enforcement and Litigation Division, Washington, DC, giving the establishment an opportunity to provide information as to why FSIS should not initiate action to indefinitely suspend or withdraw inspection service at 09173M, Brooksville Meat Fabrication, Brooksville, KY 41004.

Also, Non-Compliance Reports (NRs) were written on November 11, November 16, November 27, 2012 and July 30, August 7, August 9, August 26, September 13, and October 2, 2013, for various humane handling non-compliances involving failure to provide water, food, slips/falls, and stunning mishaps.

Finally, on October 9, 2013, at approximately 635 AM CDT hours, the establishment's stunning procedures again violated 9 CFR 313.15 (a) (1), 313.16(a)(1) and 313.2 (f) by the failure of the first stun attempt to render the animal insensible and failure to implement immediate and effective corrective action to render the animal insensible using a firearm. As such, a "NOTICE OF THIRD REINSTATEMENT OF SUSPENSION" was issued on October 9, 2013 to re-suspend the assignment of inspectors.

Since October 9, 2013, the establishment has proffered only one very poorly constructed response of eleven words which was wholly inadequate. The establishment owner has been in touch with both OFO JDO and OIEA, but has not proffered any plausible written corrective and preventive measures.

The OFO JDO District Veterinary Medical Specialist conducted a very small plant outreach on October 29 and 30, 2013 at Brooksville Meat Fabrication Est. 09173M and spend the vast majority of his time providing information to Mr. Keith Wright, Plant Owner.

As such, we in OFO again request OIEA work in concert with OGC to effect the action of withdrawal of inspection service for Brooksville Meat Fabrication Est. 09173M

CC: Alan Shadduck, OIEA
Olga Morales, OIEA
William Smith, OIEA
Daniel Engeljohn, OFO
Donald Coley, OFO
Perry Davis, OFO
David Thompson, OFO

I concur with Jackson District decision to proceed forward with withdrawal action. Thank you

Armin Arin Talus, EARO

11-20-2013



November 20, 2013

TO: James A. Booth, Assistant General Counsel
Marketing, Regulatory & Food Safety Programs Division
Office of the General Counsel

FROM: Scott C. Safian, Director
Enforcement and Litigation Division
Office of Investigation, Enforcement and Audit

SUBJECT: Brooksville Meat Fabrication
Establishment 9173 M
80 Liberty Drive
Brooksville, Kentucky 41004

Please prepare an administrative complaint to indefinitely suspend and permanently withdraw the grant of Federal inspection service from Brooksville Meat Fabrication (Brooksville), Establishment 9173 M, Brooksville, Kentucky, pursuant to sections 3(b) and 401 of the Federal Meat Inspection Act (FMIA) (21 U.S.C. 603 (b) and 671) and section 500.6 of the FSIS Rules of Practice (9 CFR 500.6). This request is based on a documented history of egregious and repetitive violations by Brooksville of sections 3(b) and 10(b) of the FMIA (21 U.S.C. 603(b) and 610(b)), the Humane Methods of Slaughter Act (HMSA) (7 U.S.C. 1901 et. seq.), and the regulations issued under the FMIA (9 CFR Part 313).

Brooksville is a very small slaughtering and processing establishment operating under a grant of inspection (current grant is dated March 5, 2003). Brooksville's primary business is slaughtering livestock and processing of meat and poultry for the local community.

In the past seven months, the Jackson District Office has suspended slaughter operations at the establishment four times, including reinstating the suspension most recently on October 9, 2013, for violations of FSIS statutory and regulatory requirements for the handling and/or slaughter of animals. The enclosed case file evidences the serious and repetitive failures of Brooksville to comply with FSIS requirements for humane slaughter and handling, to implement effective corrective and preventive actions to ensure compliance after each previous enforcement action, and of acts of animal cruelty.

Documented noncompliance includes, among others, the following:

- On April 30, 2013, after failing to effectively render a heifer insensible with the first shot from a .22 caliber rifle, the animal stood bleeding from the first shot approximately four minutes before a second shot rendered the animal insensible;

Food Safety and Inspection Service
Office of Investigation, Enforcement and Audit
Enforcement and Litigation Division
Stop Code 3753, PP3, Cubicle 8-210C
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- On June 19, 2013, after failing to effectively render a swine insensible with the first shot from a captive bolt stunner, over two minutes elapsed before the second shot was applied and rendered the animal insensible;
- On August 9, 2013, after the first and second failed attempts to stun a beef animal by firing shots from a .22 caliber rifle, the third shot rendered it insensible; and,
- On October 9, 2013, after the first failed attempt to stun a swine with a captive bolt stunner, the animal was shot two more times with a .22 caliber rifle before it was rendered insensible.

The enclosed documentation shows repetitive failures by Brooksville to implement and maintain effective corrective actions and preventive measures as a result of the previous suspension actions, and failure to effectively educate and train their employees in humane handling and/or slaughter requirements.

In this case, the Agency has provided Brooksville with numerous opportunities to comply with FSIS requirements and to identify and implement corrective and preventive actions to ensure that the slaughter and handling of livestock in connection with slaughter is carried out only by humane methods. On September 9, 2013, after the August 9 suspension had been placed in abeyance, the Agency issued a Notice of Show Cause to Brooksville, providing the opportunity to present views as to why the Agency should not initiate action to withdraw inspection. Brooksville's response provided no new information, nor any new proposed corrective action. The Agency provided outreach on October 29 and 30, 2013, with a two-day visit from the Jackson District Veterinary Medical Specialist (DVMS). The DVMS provided information and material including review of published FSIS guidelines for a systematic approach to the humane handling of livestock. However, Brooksville and its responsible officials have demonstrated an unwillingness or inability to ensure the humane treatment of animals and prevent violations of the law.

Based on the aforementioned, Brooksville is unfit to engage in a business requiring Federal inspection under the FMIA. Given the seriousness of this matter, we request your office expedite this action to assist FSIS protect the welfare of animals and the public health.

At your request, we are available to brief you on this case. If you have any questions, please contact Mr. Alan Shadduck of my office at (402) 437-5 633, in regards to this case.

Enclosures

"ADMINISTRATIVELY CONFIDENTIAL"



United States Department of Agriculture

November 21, 2013

Mr. Darryl Keith Wright, President
Brooksville Meat Fabrication Center, Inc.
80 Liberty Drive
Brooksville, Kentucky 41004

Dear Mr. Wright,

As you are aware, on October 9, 2013, the Food Safety and Inspection Service (FSIS) Jackson District Office reinstated the suspension of the assignment of inspectors from the slaughter operations at Brooksville Meat Fabrication Center, Inc., establishment number 9173 M, Brooksville, Kentucky. The reinstatement was based on a repetitive egregious failure to comply with statutory and regulatory requirements for humane handling. After careful review of this matter, including documented repetitive violations of humane handling requirements and failure to implement effective corrective actions, FSIS has determined that the violations raise serious concerns regarding your establishment's ability or willingness to take actions that are effective to ensure the humane handling of livestock.

Accordingly, we have referred this case to the United States Department of Agriculture (USDA), Office of the General Counsel with a request to file an administrative complaint to institute proceedings under the Federal Meat Inspection Act (21 U.S.C. 601 *et seq.*) and the FSIS Rules of Practice (9 C.F.R. Part 500) regarding suspension or withdrawal of inspection services. Once a complaint is filed, you will receive notice and a copy, and be provided with the opportunity under the USDA Rules of Practice, 7 C.F.R. Part 1, Subpart H, to respond to the complaint and for a formal hearing before an Administrative Law Judge.

If you have any questions or wish to discuss this matter, please contact Mr. Alan Shaddock, Compliance Specialist, Enforcement and Litigation Division, Administrative Enforcement Branch, at (402) 437-5633.

Sincerely,

Scott C. Safian
Director, Enforcement and Litigation Division
Office of Investigation, Enforcement and Audit

Food Safety and Inspection Service
Office of Investigation, Enforcement and Audit
Enforcement and Litigation Division
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UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE



In re:

Brooksville Meat Fabrication Center, Inc.)	FMIA Docket No.	14-0045
Darryl Keith Wright)		
Respondents)	Complaint	14-0046

There is reason to believe that inspection services provided to Brooksville Meat Fabrication Center, Inc., as well as Darryl Keith Wright (collectively, "Respondents"), should remain suspended indefinitely because Respondents have not provided assurances satisfactory to the Secretary that all slaughtering and handling of livestock will be conducted humanely, as required under Section 3 of the Federal Meat Inspection Act ("FMIA"), (21 U.S.C. § 603(b)) and the regulations promulgated thereunder (9 C.F.R. Part 313). Therefore, pursuant to Section 21 of the FMIA (21 U.S.C. § 621), and Part 500 of Title 9 of the Code of Federal Regulations (9 C.F.R. Part 500), and Part 1 Subpart H of Title 7 of the Code of Federal Regulations (7 C.F.R. Part 1), this complaint is issued alleging the following:

I.

(a) Brooksville Meat Fabrication Center, Inc., herein referred to as Respondent Corporation, is now and at all times material herein was, a corporation located at 80 Liberty Drive, Brooksville, KY 41004.

(b) Respondent Corporation was and has been granted Federal inspection services pursuant to the FMIA since March 3, 2003, at the above named establishment that was and has been designated as Official Establishment Number 9173/P-9173.

(c) Darryl Keith Wright is now and at all times material herein was responsibly

connected to Respondent Corporation; in that Darryl Keith Wright is President and holder of ten percent or more voting stock in the corporation.

II.

(a) On April 30, 2013, the Food Safety and Inspection Service ("FSIS") issued a Notice of Suspension, suspending the assignment of inspectors at Respondents' facility because of an egregious act involving the inhumane handling of livestock in violation of 9 C.F.R. 313.16(a)(1) and 313.16(b)(2). FSIS personnel observed a failure to stun incident at the facility involving a heifer less than 30 months of age. At that time, an establishment employee made an attempt to render the heifer insensible. After the first shot was fired with a 22 Long rifle Mini Mag Hollow Point, inspection personnel noticed that the animal was not insensible and FSIS personnel had to insist that the employee make a secondary shot. The second shot, with a .22 magnum rifle, occurred approximately four (4) minutes later.

(b) Respondents proposed corrective and preventive measures between May 1-6, 2013. On May 6, 2013, FSIS verbally notified Respondents that it found the proposed corrective actions and preventive measures were appropriate to meet regulatory requirements, thus, FSIS held the suspension in abeyance, pending verification of the proposed action plan. On May 7, 2013, FSIS sent a letter to the facility to notify Respondents that the suspension was held in abeyance.

(c) On June 19, 2013, FSIS issued a Notice of Reinstatement of Suspension of the assignment of inspectors at Respondents' facility because FSIS determined that the establishment again failed to handle animals humanely, in violation of 9 C.F.R. 313.15(a)(1) and 313.15(a)(3). In this instance, FSIS inspection personnel observed an employee of Respondents' facility deliver multiple shots to a hog with a captive bolt stunner, and fail to

take immediate corrective action to render that hog insensible. It took the employee two (2) minutes and fifteen (15) seconds to reload the captive bolt stunner, re-shoot the swine, and render the animal insensible to pain.

(d) Respondents proposed corrective and preventive measures between June 20-21, 2013. On June 21, 2013, FSIS notified Respondents verbally and in writing that it found the proposed corrective actions and preventive measures were appropriate to meet regulatory requirements, thus, FSIS held the suspension in abeyance, pending verification of the proposed action plan.

(e) On August 9, 2013, FSIS issued a Notice of Reinstatement of Suspension of the assignment of inspectors at Respondents' facility because FSIS determined that the establishment repeatedly failed to handle animals humanely, in violation of 9 C.F.R. 313.16(a)(1) and 313.16(a)(3). FSIS inspection personnel again observed an employee of the Respondents' facility deliver multiple shots of a .22 caliber rifle, and again fail to take immediate corrective action to render a beef animal insensible. In this instance, the animal had to be hit three (3) times in order to be rendered insensible to pain. In addition, 30 seconds elapsed between the first and second shot.

(f) Respondents proposed corrective and preventive measures between August 11-14, 2013. On August 16, 2013, FSIS verbally notified Respondents that it found the proposed corrective actions and preventive measures were appropriate to meet regulatory requirements, thus, FSIS held the suspension in abeyance, pending verification of the proposed action plan. On August 19, 2013, FSIS sent a letter to the facility to notify the Respondents that the suspension was held in abeyance.

(g) On October 9, 2013, FSIS issued a Notice of Reinstatement of Suspension of the

assignment of inspectors at Respondents' facility because FSIS determined that the establishment repeatedly failed to handle animals humanely, in violation of 9 C.F.R. 313.16 (a)(1), 313.2(f), 313.16(a)(1) and 313.16(a)(3). FSIS inspection personnel again observed an employee of the Respondents' facility deliver multiple shots, first with a captive bolt stunner and then multiple shots from a .22 caliber rifle. It took three shots to render the hog insensible to pain.

(h) In addition to the suspensions, Respondents have received Non-Compliance Records from FSIS inspection personnel on November 14, November 16, November 27, 2012; and July 30, August 7, August 9, and August 26, 2013, for various other humane handling violations involving the failure to provide food and water, and stunning mishaps.

III.

By reason of the facts alleged in paragraphs I and II herein, inspection services at Respondents' facility should continue to be suspended until such time as Respondents provide adequate assurances that all slaughter and handling of livestock shall be conducted humanely as required Section 3 of the Federal Meat Inspection Act ("FMIA"), (21 U.S.C. § 603(b)), and the regulations promulgated thereunder (9 C.F.R. part 313).

WHEREFORE, it is hereby ordered that for the purpose of determining whether the Secretary of Agriculture should continue to suspend the assignment of inspectors from Respondents' facility, this complaint shall be served upon the Respondents. The Respondents must file an answer with the Hearing Clerk, United States Department of Agriculture, Washington, D.C. 20250, in accordance with section 500.6 of the rules of practice (9 C.F.R. section 500.1 et. seq.) and 1.136 of the uniform rules of practice (7 C.F.R. section 1.136 et. seq.). Failure to file an answer within the prescribed time shall constitute

an admission of all material allegations of this complaint and a waiver of hearing.

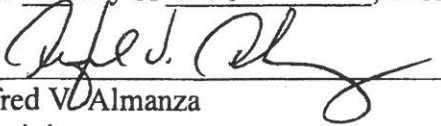
The Food Safety and Inspection Service requests:

1. That unless the Respondents fail to file an answer within the prescribed time, or file an answer admitting all the material allegations of the complaint, or unless this proceeding is disposed of by the issuance of a consent decision as provided in section 1.138 of the uniform rules of practice (7 C.F.R. section 1.138), this proceeding be set for oral hearing in conformity with the rules of practice governing proceedings under the FMIA; and

2. That an order continuing the suspension of the assignment of inspectors indefinitely from the Respondents and their affiliates, successors, or assigns, as warranted by the facts and circumstances of the case.

Done at Washington, D.C.

This 5th day of December, 2013.


Alfred V. Almanza
Administrator
Food Safety and Inspection Service

Carlynn S. Cockrum
Attorney for Complainant
Room 2319, South Agriculture Building
1400 Independence Ave., S.W.
Washington, D.C. 20250-1400
Telephone: (202) 720-5821
Carlynn.cockrum@ogc.usda.gov



January 30, 2014

Brooksville Meat Fabrication Center, Inc.
80 Liberty Drive
Brooksville, KY 41004

Dear Respondent:

Subject: **Brooksville Meat Fabrication Center, Inc., Respondent**
Docket Number: 14-0045

Your answer to the complaint was received on January 29, 2014, and filed in the above captioned proceeding. Please note that you will be informed of the proceedings in this matter.

Sincerely,

Carla M. Andrews
Assistant Hearing Clerk

Enclosure(s)

CC: Carlynne Cockrum, OGC
Scott Safian, FSIS

United States
Department of
Agriculture

Office of
Administrative
Law Judges

Hearing Clerk

Room 1031
South Building

100 Independence
Avenue SW

Washington, DC
20250-9200

(202) 720-4443
(202) 720-9776 fax



January 30, 2014

Darryl Keith Wright
80 Liberty Drive
Brooksville, KY 41004

Dear Respondent:

Subject: Darryl Keith Wright, Respondent
Docket Number: 14-0046

Your answer to the complaint was received on January 29, 2014, and filed in the above captioned proceeding. Please note that you will be informed of the proceedings in this matter.

Sincerely,

A handwritten signature in black ink, appearing to read "Carla M. Andrews", is written over the typed name.

Carla M. Andrews
Assistant Hearing Clerk

Enclosure(s)

CC: Carlynne Cockrum, OGC
Scott Safian, FSIS

United States
Department of
Agriculture

Office of
Administrative
Law Judges

Hearing Clerk

Room 1031
South Building

1400 Independence
Avenue SW

Washington, DC
20250-9200

(202) 720-4443
(202) 720-9778 fax



United States Department of Agriculture

CERTIFIED-RETURN
RECEIPT REQUESTED

March 14, 2014

Mr. Keith Wright, Plant Owner
Brooksville Meat Fabrication, Est. M9173
80 Liberty Drive
Brooksville, Kentucky 41004

Dear Mr. Wright:

This is in response to the submittals you provided to our office on February 26, 2014, which Mr. Alan Shadduck and Mr. Robert Purdy discussed with you on March 13, 2014. You provided a written amendment to your Humane Handling and Slaughter Program, which consisted of an Assessment Tool identifying numerous items as potentially resulting in inhumane handling or slaughter of livestock, and a list of procedures addressing those items.

Upon careful review of your submittal, several concerns were discussed with you, regarding the lack of written procedures to provide adequate, verifiable assurances that steps have been taken to reduce the likelihood of inhumane handling or slaughter at your facility. Specifically, concerns discussed included that the submittal does not contain (among others):

- Procedures for the selection of restraint method for the type of animal slaughtered;
- Procedures for the selection of the stunning method for the type of animal slaughtered;
- Procedures to initiate corrective actions, when necessary;
- Specifics concerning documentation (monitoring frequencies, by whom, where kept, information captured); and
- Specific training material used.

In October 2013, (b) (6), of the Jackson District Office, visited your facility, conducted a facility walk-through, and focused attention on the areas indicated as the root cause of failure that had resulted in previous suspensions, which was the animal restraint system, stunning process, and stun operator training. (b) (6) provided information to assist you in development of a robust systematic humane handling and slaughter plan, and presented material, including the "FSIS Compliance Guide for a Systematic Approach to the Humane Handling of Livestock." We are enclosing a copy of this publication which includes a step-by-step process and some examples. Enclosed also is HACCP coordinators contact information from the FSIS website, containing resources that you may find useful.

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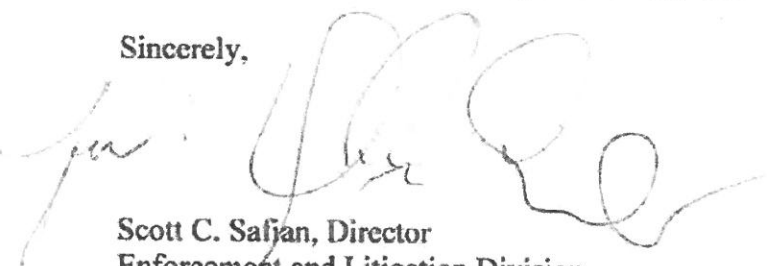
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Also, our records indicate that you are engaged in the custom slaughter and preparation of carcasses and parts at your facility. Please be aware that statutory provisions regarding the humane handling and slaughter of livestock also apply to custom exempt operations (21 U.S.C. 610(b) and 7 U.S.C. 1901-1906). Agency personnel conduct reviews at custom slaughter and processing facilities, in accordance with the statutes, regulations, and FSIS Directive 5930.1, "Custom Exempt Review Process," to ensure compliance. When FSIS personnel find insanitary conditions or other non-compliance during these reviews, they document their findings on FSIS Form 5930-1, "Exempt Establishment Review Report," discuss the findings with the owner or operator, and provide a copy of the report. FSIS also will detain any adulterated or misbranded product found during a review (21 U.S.C. 672).

When necessary to protect the public, FSIS terminates privileges to conduct custom exempt operations from owners or operators that demonstrate the inability or unwillingness to comply with agency requirements (21 U.S.C. 623). Copies of the statutes and directive are enclosed.

Please be aware that Agency officials will conduct periodic, unannounced reviews of your custom facility and operation to determine your compliance with statutory and regulatory requirements. Please contact Alan Shadduck, Compliance Specialist, at 402-437-5633, or our main office at 202-418-8872 if you have any questions regarding this letter.

Sincerely,



Scott C. Safjan, Director
Enforcement and Litigation Division
Office Enforcement, Investigation and Audit

Enclosures

UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE

Docket No. 14-0045
Docket No. 14-0046

In re: Brooksville Meat Fabrication Center, Inc.,

and

Darryl Keith Wright,

Respondents

Default Decision and Order

Preliminary Statement

This proceeding was instituted pursuant to Section 21 of the Federal Meat Inspection Act (FMIA (21 U.S.C. § 621)), and Part 500 of Title 9 of the Code of Federal Regulations (9 C.F.R. Part 500), and Part 1 Subpart H of Title 7 of the Code of Federal Regulations (7 C.F.R. Part 1), by a complaint and notice of hearing filed on December 5, 2013 by the Administrator of the Food Safety and Inspection Service (FSIS), United States Department of Agriculture, alleging that Respondents Brooksville Meat Fabrication Center, Inc. and Darryl Keith Wright violated the Act and the regulations promulgated thereunder.

The complaint and a copy of the Rules of Practice Governing Formal Adjudicatory Administrative Proceedings Instituted by the Secretary Under Various Statutes (7 C.F.R. § 1.130) (rules of practice) were served upon Respondents by certified mail to Brooksville Meat Fabrication Center on December 16, 2013, and Mr. Wright on December 18, 2013. Respondents were informed in the complaint and the accompanying letter of service that an answer should be filed pursuant to the rules of practice and that failure to answer would constitute an admission of all the material allegations contained in the complaint and a waiver of hearing. Respondents



were further informed that their answer should admit or deny each allegation as set forth in the complaint and that filing an answer that did not deny the material allegations of the complaint would constitute both an admission of those allegations and a waiver of hearing.

Respondents failed to file an answer that denies or otherwise explains or responds to any of the allegations set forth in the complaint and are deemed to have admitted the material facts alleged in the complaint and to have waived their right to a hearing. Accordingly, the following Findings of Fact, Conclusions of Law and Order will be entered pursuant to section 1.139 of the rules of practice applicable to this proceeding (7 C.F.R. § 1.139).

Findings of Fact

1. Brooksville Meat Fabrication Center, Inc., herein referred to as Respondent Corporation, is now and at all times material herein was, a corporation located in Brooksville, Kentucky.
2. Respondent Corporation was and has been granted Federal inspection services pursuant to the FMIA since March 3, 2003, at the above named establishment that was and has been designated as Official Establishment Number 9173/P-9173.
3. Darryl Keith Wright is now and at all times material herein was responsibly connected to Respondent Corporation; in that Darryl Keith Wright is President and holder of ten percent or more voting stock in the corporation.
4. On April 30, 2013, the Food Safety and Inspection Service ("FSIS") issued a Notice of Suspension, suspending the assignment of inspectors at respondents' facility because of an egregious act involving the inhumane handling of livestock in violation of 9 C.F.R. 313.16(a)(1) and 313.16(b)(2). FSIS personnel observed a failure to stun incident at the facility involving a heifer less than 30 months of age. At that time, an establishment

employee made an attempt to render the heifer insensible. After the first shot was fired with a 22 Long rifle Mini Mag Hollow Point, inspection personnel noticed that the animal was not insensible and FSIS personnel had to insist that the employee make a secondary shot. The second shot, with a .22 magnum rifle, occurred approximately four (4) minutes later.

5. Respondents proposed corrective and preventive measures between May 1-6, 2013. On May 6, 2013, FSIS verbally notified respondents that it found the proposed corrective actions and preventive measures were appropriate to meet regulatory requirements, thus, FSIS held the suspension in abeyance, pending verification of the proposed action plan. On May 7, 2013, FSIS sent a letter to the facility to notify respondents that the suspension was held in abeyance.

6. On June 19, 2013, FSIS issued a Notice of Reinstatement of Suspension of the assignment of inspectors at respondents' facility because FSIS determined that the establishment again failed to handle animals humanely, in violation of 9 C.F.R. 313.15(a)(1) and 313.15(a)(3). In this instance, FSIS inspection personnel observed an employee of respondents' facility deliver multiple shots to a hog with a captive bolt stunner, and fail to take immediate corrective action to render that hog insensible. It took the employee two (2) minutes and fifteen (15) seconds to reload the captive bolt stunner, re-shoot the swine, and render the animal insensible to pain.

7. Respondents proposed corrective and preventive measures between June 20-21, 2013. On June 21, 2013, FSIS notified respondents verbally and in writing that it found the proposed corrective actions and preventive measures were appropriate to meet regulatory requirements, thus, FSIS held the suspension in abeyance, pending verification of the proposed action plan.

8. On August 9, 2013, FSIS issued a Notice of Reinstatement of Suspension of the assignment of inspectors at respondents' facility because FSIS determined that the establishment repeatedly failed to handle animals humanely, in violation of 9 C.F.R. 313.16(a)(1) and 313.16(a)(3). FSIS inspection personnel again observed an employee of the respondents' facility deliver multiple shots of a .22 caliber rifle, and again fail to take immediate corrective action to render a beef animal insensible. In this instance, the animal had to be hit three (3) times in order to be rendered insensible to pain. In addition, 30 seconds elapsed between the first and second shot.

9. Respondents proposed corrective and preventive measures between August 11-14, 2013. On August 16, 2013, FSIS verbally notified respondents that it found the proposed corrective actions and preventive measures were appropriate to meet regulatory requirements, thus, FSIS held the suspension in abeyance, pending verification of the proposed action plan. On August 19, 2013, FSIS sent a letter to the facility to notify the respondents that the suspension was held in abeyance.

10. On October 9, 2013, FSIS issued a Notice of Reinstatement of Suspension of the assignment of inspectors at respondents' facility because FSIS determined that the establishment repeatedly failed to handle animals humanely, in violation of 9 C.F.R. 313.16(a)(1), 313.2(f), 313.16(a)(1) and 313.16(a)(3). FSIS inspection personnel again observed an employee of the respondents' facility deliver multiple shots, first with a captive bolt stunner and then multiple shots from a .22 caliber rifle. It took three shots to render the hog insensible to pain.

11. In addition to the suspensions, respondents have received Non-Compliance Records from FSIS inspection personnel on November 14, November 16, November 27, 2012; and

July 30, August 7, August 9, and August 26, 2013, for various other humane handling violations involving the failure to provide food and water, and stunning mishaps.

Conclusions of Law

1. The Secretary has jurisdiction in this matter.
2. Brooksville Meat Fabrication Center, Inc. and Darryl Keith Wright have violated the Act and the regulations promulgated thereunder.

Order

1. Respondents Brooksville Meat Fabrication Center, Inc. and Darryl Keith Wright are indefinitely suspended until such time as Respondents provide adequate assurances that all slaughter and handling of livestock shall be conducted humanely as required by Section 3 of the Federal Meat Inspection Act ("FMIA"), (21 U.S.C. § 603(b)), and the regulations promulgated thereunder (9 C.F.R. part 313).
2. This order shall have the same force and effect as if entered after a full hearing and shall be final and effective thirty five (35) days after service of this Default Decision and Order upon Respondents Brooksville Meat Fabrication Center and Darryl Keith Wright unless there is an appeal to the Judicial Officer pursuant to section 1.145 of the Rules of Practice applicable to this proceeding (7 C.F.R. § 1.145).

March 25, 2014

Peter M. Davenport

Peter M. Davenport
Chief Administrative Law Judge