



United States
Department of
Agriculture

Food Safety
and Inspection
Service

Office
of Field
Operations

Jackson District Office
713 S. Pear Orchard Road
Suite 402
Ridgeland, MS 39157

April 30, 2013

**VIA Facsimile: 606-735-2412
and USPS CERTIFIED MAIL
#7008 3230 0000 9649 4289**

Mr. Keith Wright, Plant Owner
Brooksville Meat Fabrication Est. 09173M
80 Liberty Drive
Brooksville, KY 41004

NOTICE OF SUSPENSION

Dear Mr. Wright:

This serves as official notification by the Food Safety and Inspection Service (FSIS) of our decision to suspend the assignment of inspectors for your slaughter operations at Establishment 09173M, Brooksville Meat Fabrication, 80 Liberty Drive Brooksville, KY 41004. This action is based on your establishment's failure to handle livestock humanely according to 9 CFR Part 313.

Background/Authority

Humane Methods of Slaughter Act: 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 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)

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). Specifically, your establishment failed to meet the following regulatory requirements as specified by 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

NOTICE OF SUSPENSION

Mr. Keith Wright, Plant Owner

Brooksville Meat Fabrication Est. 09173M

April 30, 2013

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remain in this condition throughout shackling, sticking and bleeding." FSIS has also developed Rules of Practice regarding enforcement (9 CFR Part 500). The Rules of Practice describe the types of enforcement action 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 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."

At approximately 0925 hour, a failure to stun incident occurred at your facility involving a heifer less than 30 months of age. An establishment employee using a .22 Long made an attempt to render the heifer insensible. After the first shot was fired, (b) (7)(C) and later (b) (7)(C) noticed the animal was bleeding from the head and nose. (b) (7)(C) and (b) (7)(C) also noticed the noisy sorting through of additional bullets by establishment employee. Inspection personnel noticed that the animal was standing and not rendered insensible. (b) (7)(C) insisted that the establishment employee hurry and make a secondary shot in order to render the animal insensible. After approximately four (4) minutes had passed, the establishment employee made a secondary shot using a 22 magnum, which rendered the animal insensible.

Failure to render the animal insensible on the first shot and the poor choice of firearm is a violation of 9 CFR§313.16(b) (2). Failure of the establishment employee to take immediate corrective action after the first shot failed to render the animal insensible is a violation of 9 CFR§313.16(a) (1). Additionally, your establishment does not have a robust systematic approach to humane handling and slaughter. (b) (7)(C) took regulatory control action and placed US Rejected tag #B35195507 on the establishment's knock box in accordance with 9 CFR§313.50, suspending all slaughter inspection at your facility. You were verbally informed on April 30, 2013 at approximately 0955 hour, of the suspension of the assignment of inspectors at your slaughter facility.

You are herein receiving written notification of the suspension of the assignment of inspectors at your facility with this letter; which will remain in effect until you provide adequate written assurances to the Jackson District Office of corrective and preventive measures to assure that animals at your facility will be humanely handled and slaughtered in accordance with the Humane Slaughter Act and Regulations 9 CFR § 313.16(a)(1) and 9 CFR § 313.16(a)(3). As a federally inspected establishment, you are expected to fully comply with regulation 9 CFR § 313.16 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 inhumane handling.

NOTICE OF SUSPENSION

Mr. Keith Wright, Plant Owner
Brooksville Meat Fabrication Est. 09173M
April 30, 2013
Page 3 of 4

You may appeal this action by contacting:

Executive Associate for Regulatory Operations
USDA, FSIS, FO
Room 3157 – South Building
1400 Independence Ave. SW
Washington, DC 20250

Telephone: (202) 720-3697 or (202) 720-9521
Facsimile: (202) 690-3287

In accordance with 9 CFR § 500.5, you may request a hearing concerning this action by contacting:

Mailing Address:

Evaluation and Enforcement Division
Office of Program Evaluation, Enforcement and Review
Food Safety and Inspection Service
United States Department of Agriculture
Stop Code 3753, PP3, Cubicle 243A
1400 Independence Avenue, SW
Washington, D.C. 20250

Physical (Courier) Address:

Evaluation and Enforcement Division
Office of Program Evaluation, Enforcement, and Review
Food Safety and Inspection Service
United States Department of Agriculture
Patriot Plaza III, 8th Floor, Cubicle 243A
355 E Street, SW
Washington, DC 20024-3221

Telephone: (202) 418-8872
Facsimile Number: (202) 245-5097

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

Sincerely,

 4/30/13

Paul A. Resweber, DVM
District Manager
Jackson District Office

NOTICE OF SUSPENSION

Mr. Keith Wright, Plant Owner

Brooksville Meat Fabrication Est. 09173M

April 30, 2013

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Cc: (b) (7)(C) (via electronic copy)
(b) (7)(C) (via electronic copy)
(b) (7)(C) (via electronic copy)
Mr. Donald Coley DDM (via electronic copy)
(b) (7)(C) (via electronic copy)
Washington, D.C. FSIS HQ Personnel (via electronic copy)



United States
Department of
Agriculture

Food Safety
and Inspection
Service

Office
of Field
Operations

Jackson District Office
713 S. Pear Orchard Road
Suite 402
Ridgeland, MS 39157

June 19, 2013

**VIA FACSIMILE 606-735-2412
and USPS CERTIFIED MAIL
7008 3230 0000 9649 4371**

Mr. Keith Wright, Plant Owner
Brooksville Meat Fabrication Est. 09173M
80 Liberty Drive
Brooksville, KY 41004

NOTICE OF REINSTATEMENT OF SUSPENSION

Dear Mr. Wright:

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" you were advised or made aware that failure to comply with regulatory requirements or to effectively implement your proposed actions that formed the basis for the abeyance may/would result in the immediate suspension of inspection at your establishment or appropriate actions to be taken. Therefore, this serves as official notification by the Food Safety and Inspection Service (FSIS) of our decision to reinstate the suspension of the assignment of inspectors for your slaughter operation at establishment 09173M, Brooksville Meat Fabrication, Brooksville, KY 41004. This action is based on your establishment's failure to handle livestock humanely according to 9 CFR Part 313.

Background/Authority

Humane Methods of Slaughter Act: 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 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)

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). Specifically, your establishment failed to meet the following regulatory requirements as specified by 9 CFR § 313.15(a) (1) 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*

NOTICE OF REINSTATEMENT OF SUSPENSION

Mr. Keith Wright, Plant Owner

Brooksville Meat Fabrication Est. 09173M

June 19, 2013

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the animals before they are shackled, hoisted, thrown, cast, or cut. The animal shall be stunned in such a manner that they will be rendered unconscious with a minimum of excitement and discomfort; and 9 CFR § 313.15(a) (3) which states (3) 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."

FSIS has also developed Rules of Practice regarding enforcement (9 CFR Part 500). The Rules of Practice describe the types of enforcement action 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 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."

On June 19, 2013 at approximately 8:33 a.m., (b) (7)(C) observed establishment employees attempting to stun a swine by captive bolt as part of federal inspection. The first shot was fired into the skull of the animal and (b) (7)(C) observed blood issuing from the site and that the animal remained standing and was not rendered insensible. (b) (7)(C) also heard the animal vocalizing. (b) (7)(C) observed an employee walk away from the knock box to get ammunition. (b) (7)(C) stated that it took the employee two minutes and fifteen seconds (2:15) to reload the captive bolt and fire the captive bolt into the skull of the animal. The animal was rendered insensible. A regulatory control action was taken to prevent the use of the knock box with U.S. Reject tag # B36191938. This incidence shows a noncompliance of humane handling that is egregious. The suspension of the assignment of inspectors for your slaughter operations will remain in effect until such time as you again provide adequate written assurances of corrective and preventative actions to assure that animals at your establishment will be handled humanely in accordance with the Humane Slaughter Act and regulations promulgated there under.

You telephonically contacted the Jackson District Office on June 19, 2013, at approximately 8:35 a.m. After a brief conversation with you and inspection personnel, the Jackson District Office sustained the suspension of the assignment of inspectors for your slaughter operations as initiated by the CSI. You are herein receiving written notification of the suspension of the assignment of inspectors at your slaughter operations with this letter, which will remain in effect until you again provide adequate written assurances of corrective and preventive measures to the Jackson District Office to assure that animals will be humanely handled and slaughtered in accordance with the Humane Slaughter Act and Regulations 9 CFR § 313.15(a)(1) and 9 CFR 313.15(a)(3).

As a federally inspected establishment, you are expected to comply with 9 CFR § 313.15(a) (1) and 9 CFR § 313.15(a) (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 reinstatement of the suspension of the assignment of inspectors for the slaughter operation due to inhumane handling.

NOTICE OF REINSTATEMENT OF SUSPENSION

Mr. Keith Wright, Plant Owner
Brooksville Meat Fabrication Est. 09173M
June 19, 2013
Page 3 of 4

You may appeal this action by contacting:

Executive Associate for Regulatory Operations
USDA, FSIS, FO
Room 3157 – South Building
1400 Independence Ave. SW
Washington, DC 20250
Telephone: (202) 720-3697 or (202) 720-9521
Facsimile: (202) 690-3287

In accordance with 9 CFR § 500.5, you may request a hearing concerning this action by contacting:

Mailing Address:

Evaluation and Enforcement Division
Office of Program Evaluation, Enforcement and Review
Food Safety and Inspection Service
United States Department of Agriculture
Stop Code 3753, PP3, Cubicle 243A
1400 Independence Avenue, SW
Washington, D.C. 20250

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United States Department of Agriculture
Patriot Plaza III, 8th Floor, Cubicle 243A
355 E Street, SW
Washington, DC 20024-3221

Telephone: (202) 418-8872
Facsimile Number: (202) 245-5097

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

Sincerely,



Paul A. Resweber, DVM
District Manager
Jackson District Office

cc: (b) (7)(C) (via electronic copy)
(b) (7)(C) (via electronic copy)

NOTICE OF REINSTATEMENT OF SUSPENSION

Mr. Keith Wright, Plant Owner

Brooksville Meat Fabrication Est. 09173M

June 19, 2013

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(b) (7)(C) [REDACTED] (via electronic copy)

Mr. Donald Coley, DDM (via electronic copy)

(b) (7)(C) [REDACTED] (via electronic copy)

Washington, D.C. FSIS HQ Personnel (via electronic copy)

2082	M9173	Brooksville Meat Fabrication C	7/30/13	UDE22 12075 230N	04C02	313.16	<p>On Tuesday, July 30, 2013 (b)(7)(C) was performing a Humane Handling inspection task during beef slaughter under inspection and observed the following Humane Handling non-compliance. At approximately 0945 hours, (b)(7)(C) was observing the establishment stunning process on a Beef animal. The establishment employee using a firearm (.22 (b)(4)) shot the animal on the first stunning attempt and knocked the animal down. The animal was attempting to stand back up after the first shot which indicated that the animal was not render insensible on the first stun attempt. The establishment employee took immediate action by taking a secondary shot which effective render the animal insensible. The establishment's failure to render the animal insensible on the first stun attempt using a firearm is a direct violation of regulation 9 CFR 313.16(a) which states "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". (b)(6) was on the kill floor helping with the stunning process at time of the incident. (b)(7)(C) made (b)(6) aware of the requirement to render the animal insensible on the first shot in accordance with the humane handling regulations. (b)(7)(C) also made (b)(6) aware of NR issuance.</p>
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2082	M9173	Brooksville Meat Fabrication C	8/7/13	UDE54 12080 307N	04C02	313.15	<p>On Wednesday August 7, 2013 (b)(7)(C) was performing a Humane Handling inspection task during hog slaughter and observed the follow Humane Handling non-compliance. At approximately 1310 hours (b)(7)(C) was observing the establishment stunning process on a hog animal. The establishment employee using a captive bolt gun shot the animal on the first stunning attempt which knocked the animal down. The animal was still vocalizing and his eye lids were twitching after the first shot which indicated that the animal was not render insensible. (b)(6) , whom was holding the snare, immediately grabbed the .22 rifle and took a secondary shot which effectively render the animal insensible. The establishment failure to render the animal insensible on the first stun attempt using a captive bolt gun is a direct violation of regulation 9 CFR 313.15. (b)(7)(C) informed (b)(6) that although immediate and effective action was taking to render the animal insensible on the second shot using the firearm, the establishment will be issued a NR.</p>
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2082	M9173	Brooksville Meat Fabrication C	8/9/13	UDE29 06085 613N	04C02	313.16	<p>On Friday, August 9, 2013 (b)(7)(C) was performing a humane handling inspection task doing the establishment slaughter of beef and observed the following Humane Handling non-compliance. At approximately 0723 hours, (b)(7)(C) was on the Kill floor observing the establishments stunning process on a beef animal. The establishment employee on the first stun attempt shot the animal using a .22 long rifle and hit the animal. The animal drop to the floor but not completely. The animal was still slightly holding it's upper body up with it's front legs and the animal was still holding it's head up straight which indicated that the animal was not render insensible on the first shot attempt. The establishment employees immediately took a second shot using the same rifle and effectively render the animal insensible. The establishment failure to render the animal insensible on the first shot attempt using a firearm is a direct violation of regulation 313.16(a) (b)(7)(C) made (b)(6) aware of the NR issuance for the non-egregious mistun.</p>
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Food Safety and
Inspection Service

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

August 9, 2013

**VIA FACSIMILE 606-735-2412
and USPS CERTIFIED MAIL
7008 3230 0000 9649 2131**

Mr. Keith Wright, Plant Owner
Brooksville Meat Fabrication Est. 09173M
80 Liberty Drive
Brooksville, KY 41004

NOTICE OF REINSTATEMENT OF SUSPENSION

Dear Mr. Wright:

This serves as official notification by the Food Safety and Inspection Service (FSIS) of our decision to reinstate the suspension of the assignment of inspectors for your slaughter operation at establishment 09173M, Brooksville Meat Fabrication, Brooksville, KY 41004. This action is based on your establishment's failure to handle livestock humanely according to 9 CFR Part 313. 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 your establishment. In the "Notice of Suspension Held in Abeyance" you were made aware that failure to comply with regulatory requirements or to effectively implement your proposed actions that formed the basis for the abeyance could result in the immediate suspension of inspection at your establishment. In addition, on June 19, 2013, a "Notice of Reinstatement of Suspension" was issued to suspend the assignment of inspectors at your establishment for failure to handle livestock humanely. On June 21, 2013, a "Notice of Suspension Held in Abeyance" was issued to your establishment. In the "Notice of Suspension Held in Abeyance" you were again made aware that failure to comply with regulatory requirements or to effectively implement your proposed actions that formed the basis for the abeyance could result in the immediate suspension of inspection at your establishment.

Background/Authority

Humane Methods of Slaughter Act: 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

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Mr. Keith Wright, Plant Owner
Brooksville Meat Fabrication Est. 09173M
August 9, 2013
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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)

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). Specifically, your establishment failed to meet the following regulatory requirements as specified by 9 CFR § 313.16(a) (1) 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. And 9 CFR § 313.16(a)(3) which states (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.” FSIS has also developed Rules of Practice regarding enforcement (9 CFR Part 500). The Rules of Practice describe the types of enforcement action 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 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.*”

On August 9, 2013, at approximately 1046 hours, (b) (7)(C) was on the Kill floor observing your establishment's stunning procedures. The establishment's employee, using a .22 magnum rifle, shot and hit the animal on the first shot but did not render the animal insensible; therefore, it was still standing. The establishment's employee then fired a second shot; however, that shot was not immediate, as 30 seconds had passed before the second shot was fired. The second shot knocked the animal down briefly, but the animal rose up on its front legs in an attempt to stand which was a clear indication that the second shot failed to render the animal insensible. The establishment's employee immediately took a third shot which knocked the animal back down and effectively rendered the animal insensible. Your establishment's failure to render the animal insensible on the first shot using a firearm is a violation of regulation 9 CFR 313.16(a)(1) and 9 CFR 313.16(a)(3). Your establishment's failure to take immediate corrective action after the first shot failed to render the animal insensible is also a violation of 9 CFR 313.16(a)(1) and 9 CFR 313.16(a)(3). Additionally, your establishment does not have a robust systematic approach to humane handling and slaughter. (b) (7)(C) took a regulatory control action and tagged the establishment's knock box using USDA reject/retain tag#B7914570. Then (b) (7)(C) notified the Jackson District Office and (b) (7)(C), whom at this time was covering for (b) (7)(C) (b) (7)(C), of the egregious Humane Handling issue.

You were telephonically informed on August 9, 2013, at approximately 10:05 AM CST, that the Jackson District Office sustained the suspension of the assignment of inspectors at your slaughter facility as initiated by the CSI. You are herein receiving written notification of the suspension of the assignment of inspectors at your slaughter operations with this letter, which will remain in

NOTICE OF REINSTATEMENT OF SUSPENSION

Mr. Keith Wright, Plant Owner
Brooksville Meat Fabrication Est. 09173M
August 9, 2013
Page 3 of 4

effect until you again provide adequate written assurances of corrective and preventive measures to the Jackson District Office to assure that animals will be humanely handled and slaughtered in accordance with the Humane Slaughter Act and Regulations 9 CFR § 313.16(a)(1) and 9 CFR 313.16(a)(3).

As a federally inspected establishment, you are expected to comply with 9 CFR § 313.16(a)(1) and 9 CFR § 313.16(a)(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 reinstatement of the suspension of the assignment of inspectors for the slaughter operation due to inhumane handling.

You may appeal this action by contacting:

Executive Associate for Regulatory Operations
USDA, FSIS, FO
Room 3157 – South Building
1400 Independence Ave. SW
Washington, DC 20250
Telephone: (202) 720-3697 or (202) 720-9521
Facsimile: (202) 690-3287

In accordance with 9 CFR § 500.5, you may request a hearing concerning this action by contacting:

Mailing Address:

Enforcement and Litigation Division
Office of Investigation, Enforcement, and Audit
Food Safety and Inspection Service
United States Department of Agriculture
Stop Code 3753, PP3, Cubicle 243A
1400 Independence Avenue, SW
Washington, D.C. 20250

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United States Department of Agriculture
Patriot Plaza III, 8th Floor, Cubicle 243A
355 E Street, SW
Washington, DC 20024-3221
Telephone: (202) 418-8872
Facsimile Number: (202) 245-5097

NOTICE OF REINSTATEMENT OF SUSPENSION

Mr. Keith Wright, Plant Owner

Brooksville Meat Fabrication Est. 09173M

August 9, 2013

Page 4 of 4

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

Sincerely,

/s/ Donald Coley, DDM for

Paul A. Resweber, DVM

District Manager

Jackson District Office

cc: (b) (7)(C) (via electronic copy)
(b) (7)(C) (via electronic copy)
(b) (7)(C) (via electronic copy)
(b) (7)(C) (via electronic copy)
Mr. Donald Coley, DDM (via electronic copy)
(b) (7)(C) (via electronic copy)
Washington, D.C. FSIS HQ Personnel (via electronic copy)

2082	M9173	Brooksville Meat Fabrication C	8/26/13	UDE20 10082 126N	04C02	313.15	<p>On Monday, August 26, 2013 (b)(7)(C) performed a Humane Handling inspection task at Brooksville Meat Fabrication, Est. M9173 and observed the following non-compliance. At approximately 1115 hours, (b)(7)(C) was on the Kill floor observing the establishment's stunning procedure during Hog slaughter. The establishment employee using a captive bolt gun, shot the animal on the first stunning attempt and failed to render the animal insensible. The animal was still vocalizing by making grunting sounds and I observed the animal eye lids twitch. (b)(6) , whom was holding the snare, immediately grabbed the .22 rifle and made a secondary shot which effectively render the animal insensible. The establishment failure to render the animal insensible on the first shot attempt using a captive bolt gun is a direct violation of regulation 9 CFR 313.15(a). (b)(7)(C) made plant owner aware that the establishment will be issued an NR for the non-egregious mistun.</p>
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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

An Equal Opportunity Provider and Employer

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: AFBCorrespondence@fsis.usda.gov

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

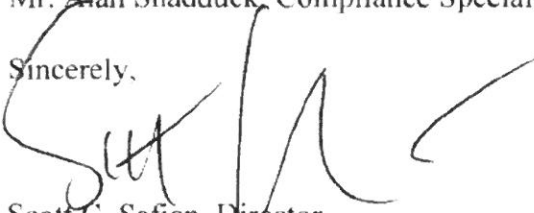
Physical address:
(for courier) Scott C. Safian, Director
Enforcement and Litigation Division
Office of Investigation, Enforcement and Audit
Food Safety and Inspection Service
United States Department of Agriculture
Patriots Plaza III, 8th Floor, Cubicle 8-210C
355 E Street, SW
Washington, DC 20024-3221

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,



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

2082	M9173	Brooksville Meat Fabrication C	9/13/13	UDE29 09090 413N	04C02	313.1	This is involving HATS Category VII: Slips and Falls. At 0855 on September 13, 2013 I observed a beef presented for slaughter that slipped numerous times before falling in the knock box prior to being stunned. The animal remained down and was shot immediately. During the week numerous animals were observed slipping on the concrete surface. The slipping of animals on the floor is in violation of regulation 313. 1 (b). Floors of pens, driveways and ramps shall be constructed and maintained to provide good footing for livestock.
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The request for this information is voluntary. It is needed to monitor defects found in this inspection system. It is used by FSIS to determine whether establishments are in compliance. 9CFR 301 and 9CFR 381, FORM APPROVED OMB No. 0583-0089. OMB DISCLOSURE STATEMENT: Public reporting burden for this collection of information is estimated to average 7 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to Department of Agriculture, Clearance Officer, OIRM, Room 404-W, Washington DC 20250: and to the Office of Information and Regulatory Affairs, Office of Management and Budget.

US Department of Agriculture FOOD SAFETY AND INSPECTION SERVICE NONCOMPLIANCE RECORD		TYPE OF NONCOMPLIANCE <input type="checkbox"/> Food Safety <input checked="" type="checkbox"/> Other Consumer Protection	
1. DATE	2. RECORD NO.	3. ESTABLISHMENT NO.	
10/2/2013	UDE4306105602N / 1	M9173 + P9173 + V9173	
4. TO (Name and Title)		5. PERSONNEL NOTIFIED	
Kleth Wright Owner			
6. RELEVANT REGULATIONS 313.16 Mechanical; gunshot		6a. ASSOCIATED NR(s) UDE2906085613N-1, UDE2212075230N-1,	
7. TITLE(S) OF HACCP OR SSOP PLAN or OTHER SUPPORTING DOCUMENTATION		7a. NAME OF HACCP CCP(S) or PREREQUISITE PROGRAM	
8. INSPECTION TASK	9. VERIFICATION ACTIVITY		
Livestock Humane Handling	<input checked="" type="checkbox"/> Review & Observation <input type="checkbox"/> Record Keeping <input type="checkbox"/> Both		
	9a. AFFECTED PRODUCT INFORMATION		
	9b. RETAIN/REJECT TAGS		
10. DESCRIPTION OF NONCOMPLIANCE			
<p>On Wednesday, October 2, 2013, (b)(6) was performing a Humane Handling inspection task at Brooksville Meat Fabrication, Est.9173M during the slaughter of beef and observed the following non-compliance. At approximately 0736 hours, (b)(6) was on the establishment kill floor observing the establishment's stunning procedures. An establishment employee on the first stunning attempt shot the animal using a firearm and the animal went down but, the animal was not render insensible, the animal rose up in an attempt to stand. The establishment employee immediately grabs the firearm and made a secondary shot which effectively render the animal insensible, the animal was down and made no more attempts to stand. The establishment employee failure to render the animal insensible on the first shot attempt using a firearm is a direct violation of Humane Handling regulation 9 CFR 313.16. (b)(6) made (b)(6) aware that since immediate and effective action was taken when the animal was not render insensible on the first shot attempt, the establishment will be issued a NR for the non-egregious mistun.</p>			
11. SIGNATURE OF INSPECTION PROGRAM EMPLOYEE			
			
You are hereby advised of your right to appeal this decision as delineated by 306.5 and/or 381.35 of 9 CFR.			
12. ESTABLISHMENT MANAGEMENT RESPONSE:			
This document serves as written notification that your failure to comply with regulatory requirements(s) could result in additional regulatory or administrative action.			
13. SIGNATURE OF ESTABLISHMENT MANAGEMENT		14. DATE	



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

October 9, 2013

**VIA FACSIMILE 606-735-2412
and USPS CERTIFIED MAIL
7008 3230 0000 9649 4647**

Mr. Keith Wright, Plant Owner
Brooksville Meat Fabrication Est. 09173M
80 Liberty Drive
Brooksville, KY 41004

NOTICE OF THIRD REINSTATEMENT OF SUSPENSION

Dear Mr. Wright:

This serves as official notification by the Food Safety and Inspection Service (FSIS) of our decision to reinstate the suspension of the assignment of inspectors for the third time for your slaughter operation at establishment 09173M, Brooksville Meat Fabrication, Brooksville, KY 41004. This action is based on your establishment's failure to handle livestock humanely according to 9 CFR Part 313. 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 your establishment. In the "Notice of Suspension Held in Abeyance" you were made aware that failure to comply with regulatory requirements or to effectively implement your proposed actions that formed the basis for the abeyance could result in the immediate suspension of inspection at your establishment. In addition, on June 19, 2013, a "Notice of Reinstatement of Suspension" was issued to suspend the assignment of inspectors at your establishment for failure to handle livestock humanely. On June 21, 2013, a "Notice of Suspension Held in Abeyance" was issued to your establishment. In the "Notice of Suspension Held in Abeyance" you were again made aware that failure to comply with regulatory requirements or to effectively implement your proposed actions that formed the basis for the abeyance could result in the immediate suspension of inspection at your establishment. Subsequently, on August 9, 2013, a "Notice of Suspension Held in Abeyance" was again issued to your establishment. In the "Notice of Suspension Held in Abeyance" you were made again aware that failure to comply with regulatory requirements or to effectively implement your proposed actions that formed the basis for the abeyance could result in the immediate suspension of inspection at your establishment. Additionally, on September 9, 2013, your establishment was issued a "Notice of Show Cause" letter from FSIS Office of Investigation, Enforcement and Audit—Enforcement and Litigation Division, Washington, DC, giving you 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. Finally, Non-Compliance Reports (NRs) were

NOTICE OF REINSTATEMENT OF SUSPENSION

Mr. Keith Wright, Plant Owner
Brooksville Meat Fabrication Est. 09173M
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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.

Background/Authority

Humane Methods of Slaughter Act: 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 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)

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). Specifically, your establishment failed to meet the following regulatory requirements as specified by 9 CFR § 313.16(a) (1) 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. And 9 CFR § 313.16(a)(3) which states (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.” FSIS has also developed Rules of Practice regarding enforcement (9 CFR Part 500). The Rules of Practice describe the types of enforcement action 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 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.*”

On October 9, 2013, at approximately 635 AM CDT hours, (b) (7)(C) was on the Kill floor observing your establishment's stunning procedures. (b) (7)(C) observed the establishment attempting to slaughter a hog. The establishment employee, as required by the verification plan, snared the hog prior to stunning to help minimize head movement. During the first stun attempt using the captive bolt gun, the animal broke away from the snare and moved his head causing the establishment employee to miss the strike mark. The first captive bolt shot attempt hit the animal in the head but failed to render the animal insensible. (b) (7)(C) observed that the animal was still standing, bleeding from the head and vocalizing by squealing. The establishment employee, who was holding the snare, grabbed the .22 rifle which was located within arms reach of the knock box to make a second shot attempt. The animal due to his injury on the first stunning attempt was acting erratic and would not stay still making it difficult for the establishment employee to aim

NOTICE OF REINSTATEMENT OF SUSPENSION

Mr. Keith Wright, Plant Owner
Brooksville Meat Fabrication Est. 09173M
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and make a second shot. Once the establishment employee made the second shot, the second shot failed to render the animal insensible. The animal was still standing and continued to vocalize by squealing. The establishment employee made a third shot effectively rendering the animal insensible. The establishment's failure to render the animal insensible on the first shot attempt using the captive bolt gun is a violation of regulation 9 CFR 313.15 (a) (1) and 313.2 (f). The establishment failure to take immediate and effective corrective action after the first stun attempt failed to render the animal insensible using a firearm is a violation of regulation 9 CFR 313.16(a)(1) and 313.2(f). Due to the egregious multiple miss-stuns, (b) (7)(C) took a regulatory control action by tagging the establishment knock box using USDA reject/retain tag# B7914173. (b) (7)(C) immediately called (b) (7)(C) and (b) (7)(C) to notify them about the egregious miss-stuns that occurred. Approximately 715 AM CDT, (b) (7)(C) spoke with the District Manager of the Jackson District Office about the egregious Humane Handling issue.

You were telephonically informed on October 9, 2013, at approximately 7:20 AM CDT, that the Jackson District Office sustained the re-suspension of the assignment of inspectors at your slaughter facility as initiated by the CSI. You are herein receiving written notification of the third reinstatement suspension of the assignment of inspectors at your slaughter operations with this letter, which will remain in effect indefinitely for now. As you are aware this is the fourth suspension and third reinstatement of suspension for inhumane handling miss-stuns at your establishment. To date of this letter, your establishment has now received four suspensions and the "Notice of Show Cause" letter. Therefore, your proffered corrective and preventive measures have not been adequate as they have not assured animals will be humanely handled and slaughtered. As such, you must again provide additional adequate written assurances of corrective and preventive measures to the Jackson District Office to assure that animals will be humanely handled and slaughtered in accordance with the Humane Slaughter Act and Regulations 9 CFR § 313.16(a)(1) and 9 CFR 313.16(a)(3). However, the Jackson District Office will evaluate these written assurances in conjunction with the USDA FSIS Offices of Field Operations and Investigation, Enforcement and Audit as well as the USDA office of General Counsel. A subsequent joint decision will be reached as to whether to issue another Suspension held in Abeyance or to enact further enforcement actions while under Reinstatement of the Third Suspension.

As a federally inspected establishment, you are expected to comply with 9 CFR § 313.16(a) (1) and 9 CFR § 313.16(a) (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 third reinstatement of the suspension of the assignment of inspectors for the slaughter operation due to inhumane handling.

You may appeal this action by contacting:

Assistant Administrator for Regulatory Operations
USDA, FSIS, FO
Room 344-E – Whitten Building
1400 Independence Ave. SW

NOTICE OF REINSTATEMENT OF SUSPENSION

Mr. Keith Wright, Plant Owner
Brooksville Meat Fabrication Est. 09173M
October 9, 2013
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Washington, DC 20250
Telephone: (202) 720-8803
Facsimile: (202) 720-5439

In accordance with 9 CFR § 500.5, you may request a hearing concerning this action by contacting:

Mailing Address:

Enforcement and Litigation Division
Office of Investigation, Enforcement, and Audit
Food Safety and Inspection Service
United States Department of Agriculture
Stop Code 3753, PP3, Cubicle 243A
1400 Independence Avenue, SW
Washington, D.C. 20250

Physical (Courier) Address:

Enforcement and Litigation Division
Office of Investigation, Enforcement, and Audit
Food Safety and Inspection Service
United States Department of Agriculture
Patriot Plaza III, 8th Floor, Cubicle 243A
355 E Street, SW
Washington, DC 20024-3221
Telephone: (202) 418-8872
Facsimile Number: (202) 245-5097

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

Sincerely,



Paul A. Resweber, DVM
District Manager
Jackson District Office

10/9/13

1025AM CDT

cc: (b) (7)(C) (via electronic copy)
(b) (7)(C) (via electronic copy)
(b) (7)(C) (via electronic copy)
Mr. Donald Coley, DDM (via electronic copy)
(b) (7)(C) (via electronic copy)
Washington, D.C. FSIS HQ Personnel (via electronic copy)