



Food Safety
Inspection Service

September 18, 2013

Office of Field
Operations
Des Moines District
Office

Signed Original Sent via UPS Priority
Signed copy sent electronically hand delivered

210 Walnut Street
Room 985
Des Moines,
Iowa 50309-2123
Voice 515.727.8960
Fax 515.727.8991

Greg Johnson, Owner
Establishment M15768
Miltona Custom Meats & Sausage
242 2nd Ave West
Miltona MN, 56354

**NOTICE OF SUSPENSION
(NOS)**

Dear Mr. Johnson:

This serves as official notification by the Food Safety and Inspection Service (FSIS) of our decision to withhold the marks of inspection and suspend the assignment of inspection program personnel at Miltona Custom Meats & Sausage Est. M15768 located at 242 2nd Ave West, Miltona MN. This action is taken in accordance with the Rules of Practice, 9 CFR 500.3(b), which indicates that FSIS may take a withholding action or impose a suspension without providing an establishment prior notification if it is handling or slaughtering animals inhumanely such as occurred at your establishment on September 18, 2013.

Background

The Federal Meat Inspection Act (FMIA) (21 U.S.C. 603 *et seq*) provides for the purpose of preventing the inhumane slaughtering of livestock. This Act gives FSIS the authority, as designated by the Secretary of the Department of Agriculture, to prescribe rules and regulations describing examinations and inspections of the method by which cattle, sheep, swine, goats, horses, mules, and other equines are slaughtered in the establishments inspected under this Act. They also provide FSIS program personnel the authority to temporarily suspend at a slaughtering establishment if FSIS finds that any cattle, sheep, swine, goats, horses, mules, or other equines have been slaughtered or handled in connection with slaughter at such establishments by any method not in accordance with the Act of August 27, 1958 (72 Stat. 862; 7 U.S.C. 1901-1906), until the establishment furnishes assurances satisfactory to FSIS that all slaughtering and handling in connection with the slaughter of livestock shall be in accordance with such methods.

Under the authorities of the Acts, FSIS has prescribed rules and regulations required for the humane slaughtering of livestock, as contained in Regulations 9 CFR Part 313, and the Humane Methods of Slaughter Act of 1978. FSIS has also developed Rules of Practice regarding enforcement prescribed in 9 CFR Part 500. The Rules of Practice describe the types of enforcement actions that FSIS may take and include procedures for taking a withholding action and or suspension, with or without prior notification, as well as the procedures for filing a complaint to withdraw a Grant of Federal Inspection.

Findings/Basis for Action

At approximately 1430 hours on September 18, 2013, while in the USDA office at the Milona establishment the Food Safety Inspection Service (FSIS) Supervisory Public Health Veterinarian (SPHV) heard several gunshots, in succession. A single gunshot would not have been out of the ordinary as the plant was slaughtering federally inspected cattle this day. When the SPHV heard the third gunshot he went to the slaughter room floor to investigate the matter. Upon arrival he was informed that the last 6 cattle (approximately 1300 pounds each) were not willingly to leave the holding pen (approximately 15 X 15) and ambulate to the knocking area. As the plant employees were unsuccessful, several times, in trying to move the cattle, they elected to stun them as they were standing in the holding pen. The holding pen has 2 exits: one service door on the side wall (entering the kill floor) and one exit on the end that leads to the knocking area (through the stunning chute).

After answering the SPHV questions, an employee opened the service door allowing observation of the holding pen. At that time the SPHV noted several cattle apparently unconscious on the floor and one animal standing over the others in the back of the room. The employee that opened the service door stated to the person that had just performed the stunning (utilizing a .22 magnum caliber rifle) that there "was a problem." By the time the first employee mentioned his concern, the employee with the firearm was already out of the holding pen area and now standing in the kill floor area. This person immediately went back to the holding pen (through the knocking area) and shot the standing animal another time. The animal then immediately fell to the floor and did not appear to show any further signs of consciousness. As the room was dark and the cattle were all black in color, the SPHV was unable to distinctly determine whether the animal (when he initially noted it standing) had a gunshot wound on its head. However when the animal was slaughtered and the skin/hide was removed from the head, there were two bullet holes (approximately 1 – 1 ½ inches apart) in the head. The FSIS, In Plant Inspector (IPP) also came into the kill floor area and observed the standing animal which was subsequently shot.

The plant employees stated to the SPHV that each animal, with the exception of the last, was rendered unconscious with a single gunshot. Upon further discussion with the plant employee that stunned the cattle in this occurrence, he noted that he did shoot and stun the animal in question last (after stunning the first five). He further noted that the animal did fall to the ground and appear to be properly stunned when he left the room. He believes he observed the animal in a state of unconsciousness for approximately 30 seconds before he left the area. He stated the animal stood up and was in the position the SPHV initially noted, as he left the holding pen area and returned to the kill floor.

The SPHV identified this action as non compliant with 9 CFR 313.16(a)(1) which requires that a firearm produce immediate unconsciousness by a single shot and that the animal be rendered insensible with a minimum of excitement and discomfort. 9 CFR 313.16(b)(1)(iv) requires that the proper caliber of firearm be used to produce the desired effect and that operator be able to accurately direct the projectile to produce immediate unconsciousness.

The SPHV also noted that the Milona establishment does not have a Robust Humane Handling Program in effect at this point in time.

The plant manager was notified of this non compliance and that the DVMS, DO, and FLS would be notified for further direction. U.S. Reject tag # B37525096 was applied to the holding pen/stunning area. All animals to be slaughtered this day were already stunned at this time and the further processing (skinning, evisceration, trimming, etc...) was allowed to continue.

This is a violation of the Federal Meat Inspection Act (FMIC) (21 U.S.C.) 603), Regulations 9 CFR Part 313, and the Humane Methods of Slaughter Act of 1978.

Justification

The Notice of Suspension was issued for this egregious humane handling incident based on the establishment's lack of a systematic approach to humane handling of livestock. Additionally, the establishment employee failed to adequately assess the animals that were stunned for signs of return to consciousness which raises the question of sufficient or appropriate training of employees in basic principles of humane handling.

Based on the above findings, the Des Moines District Office has determined to suspend the assignment of inspectors for your slaughter operations, as per the Rules of Practice 9 CFR 500.3(b). The suspension will remain in effect until you provide adequate written corrective and preventive measures to assure that all livestock at your facility will be handled in a humane manner during slaughter.

You are reminded that as an operator of a federally inspected plant, you are expected to comply with FSIS regulations, with regard to the humane handling and slaughter of livestock. Please be advised that you have the right to appeal this matter. If you wish to appeal you should contact:

Dr. Keith Gilmore
Executive Associate for Regulatory Operations
USDA FSIS OFO
210 Walnut St., Room 923
Des Moines, IA 50309
Tel: 515-727-8970
Blackberry: 785-766-9830

In addition, you may also request a hearing regarding this determination pursuant to FSIS Rules of Practice, 9 CFR Part 500. The Rules of Practice were published in the Federal Register, Vol.64, no 228, on November 29, 1999. As specified in Section 500.5(d), should you request a hearing, FSIS will file a complaint that will include a request for an expedited hearing.

If you wish to request a hearing regarding this determination, you should contact:

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 8-243A
1400 Independence Avenue, SW

Washington, DC 20250
Telephone No: 202-418-8872
Fax number: (202) 245-5097

We urge your cooperation and voluntary compliance. If you have questions regarding this matter, please feel free to contact the Des Moines District Office, at 515-727-8960 or (b) (7)(C) at 515-727-(b) (7)(C) or 515-480-(b) (7)(C). In addition you may contact (b) (7)(C) at 612-270-(b) (7)(C).

Sincerely,



Dr. Dawn Sprohls,
District Manager
USDA FSIS OFO DO
Des Moines District