



United States Department of Agriculture

Food Safety and
Inspection Service

Raleigh District Office

6020 Six Forks Road
Raleigh, NC. 27609
Voice: 919-844-8400
Fax: 1-844-839-6359

November 8, 2022

EMAIL

Mr. Michael Wagner, Owner/President
Wagner Meats, LLC, Est. M10804
604 North Main Street
Mt. Airy, MD 21771

NOTICE OF SUSPENSION

Dear Mr. Wagner,

This letter confirms the verbal notification given on November 8, 2022, at approximately 1440 hours, by the Food Safety and Inspection Service (FSIS) Inspection Program Personnel (IPP) of the suspension of the assignment of inspectors for slaughter operations at Wagner Meats, LLC, Est. M10804, herein after referred to as “your establishment.” This action was initiated in accordance with Title 9 of the Code of Federal Regulations (9 CFR) 500.3, after FSIS determined that your establishment failed to slaughter and handle animals humanely.

Background/Authority

The Federal Meat Inspection Act (FMIA) (Title 21 of the United States Code {21 U.S.C.} 603 et seq.) provides that for the purpose of preventing the inhumane slaughtering of livestock, the Secretary shall cause to be made, by inspectors appointed for that purpose, an examination and inspection of the methods by which cattle, sheep, swine, goats, horses, mules, or other equines are slaughtered and handled in connection with slaughter in the slaughtering establishments inspected under this Act. The Secretary may refuse to provide inspection to a new slaughtering establishment or may cause slaughtering to be temporarily suspended at a slaughtering establishment if the Secretary finds that any cattle, sheep, swine, goats, horses, mules, or other equines have been slaughtered or handled in connection with slaughter at such establishments by any method not in accordance with sections 1901 to 1906 of Title 7 until the establishment furnishes assurances, satisfactory to the Secretary, that all slaughtering and handling in connection with slaughter of livestock shall be in accordance with such a method.

The Humane Methods of Slaughter Act of 1978 (7 U.S.C. 1901 et seq.) provides that 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.

Findings/Basis for Suspension

At approximately 1430 hours on Tuesday, November 8, 2022, at your establishment, IPP identified an egregious humane handling noncompliance in which an employee required multiple stun attempts to render a boar unconscious. IPP observed an establishment employee walking an approximately 600-pound boar into the knock box to be stunned. The establishment employee stood at the doorway of the kill box leading to the pens and attempted to stun the boar using a .22 Magnum rifle, with the shot placed directly into the center of the skull. After the first shot was rendered, the boar stood still for several seconds on all four legs, then proceeded to charge at the establishment employee and ran out into the pens. After several minutes, employees were able to walk the boar back into the kill box and shut the gate leading to the pens. The boar was in an agitated state, vocalizing and running in circles while in the kill box. After several more minutes the establishment employee administered a second shot with the rifle, which was off-center (right) of the skull of the boar. The boar again became agitated and began running around inside the kill box, vocalizing loudly. Using a shovel, another establishment employee proceeded to push the boar on its left side rear from behind to get the boar closer to the gate of the kill box, where the employee was waiting to administer another stun attempt. The establishment employee then proceeded to render a third shot with the rifle, which was off-center (left) of the skull. The boar once again stood on all fours, began vocalizing loudly and running around the kill box until it was further restrained by several employees. A fourth shot with the rifle was then administered and was again off-center (left) in the upper area of the head. The boar remained still for several seconds then began vocalizing loudly again and continued to move around inside the kill box. Once the boar stopped, an establishment employee used a shovel to push the boar from behind, moving it closer to the gate to facilitate another shot. The establishment employee then rendered a fifth shot using the rifle, which was off-center (left) of the skull, and the boar fell back onto the floor. The establishment employees proceeded to open the gate of the kill box and attempted to grab the leg to attach a chain and hoist the boar; however, the boar starting to regain consciousness and returned to standing on all four legs. The establishment employee then shut the gate of the kill box and proceeded to use an electric stunner to the head of the boar, applying it for approximately 14 seconds by count until the boar was fully unconscious. IPP then took a regulatory control action by placing US Retain/Reject tag #B30289395 on the kill box gate and at approximately 1440, notified the Kill Floor Supervisor and the Owner of the pending enforcement action.

This incident represents a violation of 9 CFR 313.16(a)(1) which says in part “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.” This incident is considered egregious because there were multiple attempts (i.e., more than one attempt) to stun the animal with a failure to apply an immediate and effective corrective action. The establishment has a Robust Systematic Approach for Humane Handling; however, they were not following their program when this incident occurred.

The suspension action will remain in effect until you provide the Raleigh District Office with adequate written assurances, including corrective actions and further planned preventive measures, to assure that

livestock at your establishment are slaughtered humanely. In order to resume inspected operations, you must submit corrective actions to my attention at the District Office. These corrective actions should include at a minimum the following:

1. Identify the assessment process used to determine the nature and cause of the noncompliances.
2. Identify what the assessment revealed as the likely cause of the system failure.
3. Describe the specific actions that will be taken to eliminate the cause of the failures.
4. Describe the future monitoring activities you will use to ensure that changes are implemented and are effective.

You are reminded that, as an operator of a federally inspected plant, you are expected to comply with FSIS regulations and to take appropriate corrective actions to prevent inhumane handling of livestock at your establishment. Please be advised that your failure to respond adequately to these issues may result in our initiating action to withdraw inspection from your establishment. Please also be advised that you have the right to appeal this matter.

In accordance with 9 CFR 500.5(a)(5), you may appeal this action by contacting:

Sherri Johnson
Executive Associate for Regulatory Operations
Office of Field Operations
Food Safety and Inspection Service
United States Department of Agriculture
1400 Independence Avenue, SW
South Building, Room 3154
Washington, DC 20250
Phone: (202) 205-0001

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

Scott C. Safian, Branch Chief
Enforcement Operations Branch
Office of Investigation, Enforcement and Audit
Food Safety and Inspection Service
Stop Code 3753, PP3, Cubicle 9-235-A
1400 Independence Avenue, SW
Washington, D.C. 20250
Voice: (202) 418-8872
Fax: (202) 245-5097

It is our hope that this matter can be resolved quickly. If you have any questions, you may call me at 919-208-2945 or contact me via email at todd.furey2@usda.gov. You may also contact Dr. Roger Murphy, Deputy District Manager, at 919-326-5283. We urge your cooperation and voluntary compliance.

Sincerely,

**ROGER
MURPHY**

Digitally signed by
ROGER MURPHY
Date: 2022.11.08
19:20:11 -05'00'

Todd Furey
District Manager
Raleigh, NC

cc:

P. Bronstein, AA/FO

H. Sidrak, DAA/FO

S. Johnson, EARO/FO

P. Wolseley, EARO/FO

S. Safian, ELD/OIEA

L. Hortert, RD/CID/OIEA

R. Murphy, DDM/RDO/FO

M. Roling, DDM/RDO/FO

A. Thompson, DDM/RDO/FO

(b) (6)

Quarterly Enforcement Report
Establishment File (Est. M10804)