



January 23, 2020

ABF Packing Inc.
Establishment 19478
8758 U.S Hwy 377
Dublin, TX 76446

HAND DELIVERED
CERTIFIED - RETURN
RECEIPT REQUESTED
7017 2680 0000 3276 5529

Attention: Mr. Jason Byer, Owner

NOTICE OF SUSPENSION

This letter confirms the verbal notification provided to you January 23, 2020, by Dr. Gary Davis, Deputy District Manager, that the Food Safety Inspection Service (FSIS) is suspending the assignment of inspectors related to the Slaughter Hazard Analysis and Critical Control Point (HACCP) plan at Establishment 19478, ABF Packing Inc., Dublin, Texas.

On January 23, 2020, at approximately 5:45 a.m., (b) (6) and Inspection in Charge (IIC) was performing the humane handling task at establishment 19478 (b) (6) was verifying the compliance of the Humane Activity Tracking System (HATS), category VIII, the effectiveness of stunning, and compliance with Title 9 of the Code of Federal Regulations (CFR) Part 313.15(a)1.

In her documentation, (b) (6) stated, *At approximately 0545 hours, (b) (6) observed an establishment employee attempt to knock a dairy cow that was condemned on ante-mortem inspection for an epithelioma with boney invasion. The event occurred in the alley leading to the first holding pen as the animals enter the. The dairy cow was loose in the alley, the establishment employee was walking up to the dairy cow and applied captive bolt gun to the forehead, and the bolt fired. The dairy cow dropped to a sternal position, was sitting upright, and displayed rhythmic breathing, normal blinking and was vocalizing. The establishment employee did not have a second captive bolt gun present but re-loaded the original handheld captive bolt. A second stun was successfully applied. The second knock was immediate and effective in rendering the dairy cow unconscious. The establishment employee applied a security knock to the back of the head, but the gun sounded muffled upon firing. The establishment employee then left the area to move the dairy cow to the rendering area. The dairy cow's identification was collected. Approximately 1-2 minutes later, the animal returned to consciousness and displayed rhythmic breathing. (b) (6) notified the employee that collected identification the dairy cow was not dead and needed to be knocked again. The employee went to the office to collect the captive bolt to knock the animal but realized that it was taken by the establishment employee to go get the skid steer. Then, a captive bolt gun was brought from the knocking box to stun the dairy cow for the 4th time. This stun rendered the animal immediately unconscious and rhythmic breathing ceased. A regulatory control action was taken and a US Rejected Tag # B38158457 was placed on the alleyway entering the premise. Mr. Gilbert Martinez, the Plant Manager was notified.*

This egregious act does not meet the regulatory requirements of 9 CFR 313.15(a)(1) & (3) which state, *(1) The captive bolt stunners shall be applied to the livestock in accordance with this section so as to produce immediate unconsciousness in the animals before they are shackled, hoisted, thrown, cast, or cut. The animals shall be stunned in such a manner that they will be rendered unconscious with a minimum of excitement and discomfort... (3) 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.*

Further, the actions taken clearly showed that your establishment failed to handle and/or slaughter animals humanely, as required in the Humane Methods of Slaughter Act of 1978, Title 7, Section 1902, which states in part, *all animals are rendered insensible to pain by a single blow or gunshot...*

This suspension action, without prior notification, is taken in accordance with the Rules of Practice, 9 CFR 500.3(b) which states, *FSIS also may impose a suspension without providing the establishment prior notification because the establishment is handling or slaughtering animals inhumanely.*

Your establishment does have a robust systematic approach. However, due to the seriousness of this incident, FSIS is issuing a Notice of Suspension for this egregious inhumane handling event.

The suspension of the assignment of inspectors will remain in effect until such time as you provide adequate written assurance to this office of corrective actions and preventive measures to assure that the handling and/or slaughter of animals will be done humanely and in accordance with the Federal Meat Inspection Act (FMIA), 21 United States Code (USC) 610(b), and the regulations promulgated therein. You may submit your corrective and preventive actions to my attention at the Dallas District Office.

You are reminded that as an operator of a federally inspected establishment, you are expected to comply with FSIS regulations and to take appropriate corrective actions to prevent inhumane slaughter. Please be advised that your failure to respond adequately to these rules may result in our initiating action to withdraw inspection from your establishment.

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

Mr. Paul Wolseley
Acting Executive Associate of Regulatory Operations
Office of Field Operations
Food Safety and Inspection Service, USDA
Room 3159 South Building
Washington, DC 20250
Office: (202) 708-9506
Cell: (630) 544-9805
Paul.wolseley@usda.gov

In addition, you may request a hearing regarding this determination pursuant to FSIS's Rules of Practice, 9 CFR 500. The Rules of Practice were published in the Federal Register, Volume 64,

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Number 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:

Director
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 8-235 A
1400 Independence Avenue SW
Washington, DC 20250
Telephone: 202-418-8872
Fax Number: 202-245-5097

If you have any questions, please contact (b) (6)

(b) (6)

Sincerely,



Jennifer Beasley-McKean, DVM
District Manager

cc:

(b) (6)

Inspector in Charge, Establishment 19478, Dublin, TX

I received a copy of this Notice of Notice of Suspension dated January 23, 2020, on

Date

Responsible Plant Official

Signature of FSIS Witness