



Food Safety and
Inspection Service

Alameda District
800 Buchanan St.
Albany, CA 94710

Phone: (510) 769-5712

Fax: (844) 622-0081

April 11, 2020

Dr. Samuel Garcia, Manager
University of Arizona
Food Products & Safety Laboratory
Establishment M966
4181 North Campbell Avenue
Tucson, AZ 85719

**CERTIFIED RETURN
RECEIPT REQUESTED**

E-mail: srgarcia@email.arizona.edu

NOTICE OF SUSPENSION

Dear Dr. Garcia:

This letter confirms the verbal notification provided to your establishment on April 10, 2020, by the Food Safety and Inspection Service (FSIS), Alameda District of the suspension of the assignment of inspectors at your establishment and the withholding of the marks of inspection for the slaughter operations, in accordance with 21 U.S.C. 603 and Title 9 Code of Federal Regulations (CFR) Part 500.3 (b). This action is initiated due to your firm's failure to maintain or implement required controls to prevent the inhumane handling and slaughtering of livestock at your establishment and to appropriately slaughter animals in accordance with Title 9 CFR Part 313.15(a)(1), 313.30(a)(1) and 313.30(a)(3). This is in violation of 21 U.S.C. 603(b) of the Federal Meat Inspection Act, the Humane Methods of Slaughter Act of 1978, and the regulations promulgated thereunder.

Background/Authority:

The Federal Meat Inspection Act (FMIA) (21 USC 603 et seq.) provides for the purpose of preventing the inhumane slaughtering of livestock that FSIS has the authority, as designated by the Secretary of the Department of Agriculture, to prescribe rules and regulations describing examine and inspect the method 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 the Act. FSIS may refuse to provide inspection to a new slaughtering establishment or may cause inspection to be temporarily suspended at a slaughter 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 establishment by any method not in accordance with sections 1901 to 1906 of U.S.C. Title 7 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 a method.

Under the authorities of the Act, FSIS has prescribed rules and regulations required for the humane slaughtering of livestock, as contained in Title 9 CFR Part 313, and the Humane Methods of Slaughter Act of 1978. FSIS has also developed Rules of Practice regarding enforcement prescribed in Title 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 and Basis for Action:

On April 10, 2020, at approximately 1531 hours while performing slaughter inspection at Establishment M 966, the FSIS Consumer Safety Inspector (CSI) observed a large hog being driven into the establishment's cattle restrainer box. The stunner employee applied the electric stunning wand behind the hog's ears, and the animal went rigid and collapsed with all four legs under the body. The CSI then heard a second employee fire a captive bolt gun into the box towards the head area, then reload and discharge the gun a second time.

The stunner employee opened the cattle restrainer box door. The hog was lying down but perched up on one front leg, with head upright and alert. The hog squealed, and its eyes were tracking. The stunner employee climbed down the stairs of the cattle restrainer area and applied the electric stunning wand a second time behind the ears. The hog's muscles went rigid and the employee removed the electric stunning wand after approximately four to seven seconds.

The hog rolled out of the cattle restrainer and landed on its side in the blood pit area. The hog began squealing again and its eyes were still alert and tracking movement. The employee applied the electric stunning wand a third time, this time to the hog's thorax (cardiac stun). After he removed the wand, the captive bolt gun employee again fired the device into the animal's forehead. This captive bolt blow finally rendered the hog unconscious.

The CSI applied U.S. Rejected tag #B37528684 to the cattle restrainer and notified (b) (6). The CSI later observed two holes from the captive bolt stuns in the approximate center of the hog's forehead, showing the attempts made by the employees to render the hog immediately unconscious using the captive bolt stunner.

This is an egregious act of inhumane handling of animals in connection with slaughter, as your employees were unable to render the hog immediately unconscious after three electric stun attempts and at least one captive bolt attempt. Additionally, the application of an electric cardiac stun while the hog was conscious represents a serious deviation in proper use of an electric stunner. Your establishment currently has a Robust Systematic Approach to humane handling and slaughter of livestock, but regulatory discretion for issuing a Notice of Intended Enforcement instead of a Notice of Suspension was not applied due to the seriousness of the misuse of the electric stunner device.

This is an egregious noncompliance of Title 9 CFR 313.15(a)(1), which states in part, *"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."*

In addition, this is a violation of Title 9 CFR 313.30(a)(1), which states, *"The electric current shall be administered so as to produce, at a minimum, surgical anesthesia, i.e., a state where the animal feels no painful sensation. The animals shall be either stunned or killed before they are*

shackled, hoisted, thrown, cast, or cut. They shall be exposed to the electric current in a way that will accomplish the desired result quickly and effectively, with a minimum of excitement and discomfort.” In addition, Title 9 CFR 313.30(a)(3) states, *“The quality and location of the electrical shock shall be such as to produce immediate insensibility to pain in the exposed animal.”* This constitutes failure to adhere to the regulatory requirements of the humane handling and slaughter of livestock, as required by the Federal Meat Inspection Act, 21 U.S.C. 603(b), the Humane Methods of Slaughter Act, and the regulations promulgated thereunder.

The Federal Meat Inspection Act 21 U.S.C. Section 603(b) provides legal authority to suspend operations at any establishment where animals have not been handled in a humane manner as described in 7 U.S.C. 1901 where it states, *“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.”* In accordance with Title 9 CFR 500.3(b), the suspension of inspection at an establishment without prior notification for inhumane handling practices is warranted, as specified in Title 9 CFR 313 and under authority of 21 U.S.C. 621.

Based on the above findings and your failures to meet statutory and regulatory requirements for the humane handling and slaughter of livestock, and in accordance with Title 9 CFR 500.3(b), FSIS is suspending the assignment of inspectors and withholding the marks of inspection for the slaughter operations at your establishment. This letter confirms the verbal notification of the suspension of the assignment of inspectors for the slaughter operations that FSIS provided to your establishment on April 10, 2020.

The suspension of the assignment of inspectors will remain in effect until you can proffer to the FSIS, Alameda District Office, adequate written assurances including corrective actions and preventative measures to assure that livestock at your establishment are handled and slaughtered humanely, in accordance with the FMIA, The Humane Methods of Slaughter Act, and regulations promulgated thereunder.

In addition, failure to respond to this Notice of Suspension and failure to assure that animals at your establishment are handled and slaughtered humanely in accordance with the statutory and regulatory requirements may result in further administrative enforcement actions.

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

U.S. Department of Agriculture
Food Safety and Inspection Service
Attention: Paul Wolseley
Acting Executive Associate for Regulatory Operations
1400 Independence Avenue, SW
Room 344-E, Whitten Building
Washington, DC 20250

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

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, PP3, Cubicle 9-235A
1400 Independence Avenue, SW
Washington, DC 20250
Voice: (202) 418-8872
Fax: (202) 245-5097

If you have any questions, please call the Alameda District Office at (510) 769-5712.

Sincerely,

/s/ Virginia Felix, DDM (for)

Yudhbir Sharma, DVM
District Manager

cc:

A. Amin, DDM
S. Beckett, DDM
V. Felix, DDM
F. Gillis, DDM

(b) (6)

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P. Wolseley, Acting EARO
S. Baucher, IEA, RD
USDA IIC, Est. M966
FO/QR