



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

December 16, 2020

EMAIL

Mr. Mike Flohr, Owner
A & W Country Meats, Inc., M10801
Rear 12 Middle Street
Taneytown, MD 21787

NOTICE OF SUSPENSION

Dear Mr. Flohr,

This letter confirms the verbal notification given to you on December 16, 2020, at approximately 11:25am, by the Food Safety and Inspection Service (FSIS) Inspection Program Personnel (IPP) of the suspension of the assignment of inspectors for slaughter operations at A & W Country Meats, Inc., Est. M10801, 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

Inspection program personnel (IPP) identified an egregious Humane Handling incident at M10801, A & W Country Meats. At approximately 6:50 am on the morning of December 16, 2020, the establishment presented a steer for slaughter. An employee attempted to stun the steer using a .25 caliber hand-held captive bolt stunning device (HHCB). IPP was waiting on the kill floor, around a corner from the knock box, and after the first stun attempt, IPP did not hear the steer being dropped onto the kill floor; instead IPP heard a second firing of the HHCB. IPP rounded the corner and observed that the steer had gone down in the knock box, but was in sternal recumbency, was rhythmically breathing, was twitching its ears, and it was moving its head from side to side observing its surroundings. The employee reloaded the HHCB two more times and attempted a third and fourth stun, which IPP observed to have almost no effect on the steer. Another employee suggested that the stunning employee had forgotten to reset the plunger on the HHCB, thus preventing the bolt from discharging into the steer's skull. The employee reset the plunger on the HHCB and attempted a fifth stun. Following this attempt, the steer remained conscious, vocalized, and attempted to stand in the knock box. The employee then reloaded the HHCB and fired a sixth time, successfully rendering the steer unconscious. At approximately 7:00 am, IPP placed US Retain/Reject Tag No. B39387299 on the knock box in accordance with 9 CFR 313.50(c). Following consultation with the Raleigh District Office, IPP notified the establishment's owner of the pending enforcement action at approximately 8:35am. The establishment had been operating under a robust systematic approach to Humane Handling and had a good history of HH compliance, so the District Office exercised regulatory discretion and prepared to issue a Notice of Intended Enforcement (NOIE). The establishment proffered acceptable immediate corrective actions and resumed slaughter operations.

At approximately 10:20am that same morning, December 16, 2020, IPP observed a second humane handling stunning incident. An employee attempted to stun a hog using a 9mm HHCB. Following the first stunning attempt, the hog remained standing and vocalized in the knock box. The employee immediately reloaded the HHCB and delivered an effective corrective action, rendering the pig unconscious. IPP placed US Retain/Reject Tag No. B39387299 on the knock box in accordance with 9 CFR 313.50(c) at approximately 11:05 am. After further consultation with the Raleigh District Office, IPP notified the establishment owner of the pending enforcement action at approximately 11:25 am.

These incidents represent a violation of 9 CFR 313.15(a)(1) which says, in part, that "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 first incident was considered egregious because there were multiple attempts to stun the steer before it was rendered unconscious. While the second incident would normally be considered a non-egregious noncompliance, the occurrence of multiple stunning failures

indicates an overall failure of your ability to humanely slaughter livestock. Therefore, the Raleigh District Office is initiating a suspension of slaughter operations.

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:

Sherry Johnson
Acting Executive Associate for Regulatory Operations
Office of Field Operations
Food Safety and Inspection Service
United States Department of Agriculture
1400 Independence Avenue, SW
Room 1330A, South Building
Washington, DC 20250
Phone: (202) 379-6196

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. Ariel Thompson, Deputy District Manager, at 919-208-2946. We urge your cooperation and voluntary compliance.

Sincerely,

ARIAL
THOMPSON

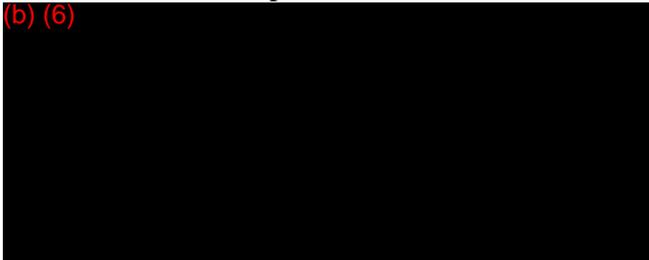
 Digitally signed by ARIAL
THOMPSON
Date: 2020.12.16 16:51:03 -05'00'

Todd Furey
District Manager
Raleigh, NC

cc:

P. Bronstein, AA/FO
H. Sidrak, DAA/FO
S. Johnson, 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. M10801)