



United States Department of Agriculture

Food Safety and Inspection
Service
Office of Field Operations
Jackson District Office
713 S Pear Orchard Rd,
Plaza 2, Suite 402
Ridgeland, MS 39157

March 22, 2021

Via Email To: jamesayoder@gmail.com and
(b) (6)
And FedEx Tracking
#773224398163

Mr. James Yoder, Owner
Yoder Brothers Meat Processing, Est. M/P17301
1650 Briarpatch Road
Paris, TN 38242

NOTICE OF SUSPENSION

Dear Mr. Yoder:

On March 22, 2021, a "Notice of Suspension" was issued to suspend the assignment of inspectors for your federal slaughter activities at Yoder Brothers Meat Processing, 1650 Briarpatch Road, Paris TN 38242, Est. M/P17301. This action was based on your establishment's failure to handle livestock humanely according to 9 CFR Part 313.

Background/Authority

The Federal Meat Inspection Act (FMIA) (21 U.S.C. 603 *et seq*) states, "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 method by which amenable species 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 inspection 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 the Act of August 27, 1958 (72 Stat. 862; 7 U.S.C. 1901-1906) 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. This Act also gives FSIS personnel the right to examine and inspect all carcasses and parts of carcasses that are further treated and prepared, and the right to access and examine establishment records.

Under the authorities of the Act, FSIS has prescribed rules and regulations required for establishments producing meat products, including the requirements pertaining to Humane Slaughter of Livestock (9 CFR Part 313) and other matters. Specifically, your establishment failed to meet the following regulatory requirement as specified by 9 CFR § 313.15 (a)(1) and (3) which states, "(a) Application of stunners, required effect; handling. (1) The captive bolt stunners shall be applied to the livestock in accordance

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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”.

Humane Methods of Slaughter Act: Humane Methods of Slaughtering Act, 7 U. S. C. 1901 states, “*The 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 slaughtering operations; brings about improvement of products and economies in slaughtering operations; and produces other benefits for producers, processors and consumers which tends 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 (7 U.S.C. 1901).*”

FSIS has prescribed Rules of Practice regarding enforcement (9 CFR Part 500). The Rules of Practice describes the types of enforcement actions that FSIS may take including procedures for taking a withholding action and/or suspension, with or without prior notification, and for filing a complaint to withdraw a grant of Federal inspection. 9 CFR § 500.3 (b) states, “*FSIS also may impose a suspension without providing the establishment prior notification because the establishment is handling or slaughtering animals inhumanely.*”

Findings/Basis for Action

On March 22, 2021, at approximately 0850 hours, the CSI was performing a routine verification task for Humane Handling and observed the following noncompliance. An establishment employee moved a hog into the stunning box. A designated employee attempted to stun the animal using a captive bolt device. After administering the first shot, the animal went down, released a long breath, and immediately stood up. The designated employee reloaded the captive bolt device and administered a second shot, which was ineffective, exhibited by the animal remaining standing. The captive bolt device was reloaded for a third time and a third shot was administered that did not render the animal unconscious and insensible to pain, as the animal still remained standing. At that point, the establishment summoned an additional employee from processing who is specifically authorized to administer a gun shot. The employee immediately retrieved the firearm from its location, came to the slaughter floor, and dispensed a single shot which rendered the animal unconscious and insensible. The stunning box was tagged, and (b) (6) (b) (6) was notified of the noncompliance.

On March 22, 2021, at approximately 11:00 AM CDT, the DDM from the Jackson District Office, contacted you telephonically and informed you that the withholding action to suspend the federal slaughter activities at your facility was sustained. You are herein receiving written notification of the suspension of the assignment of inspectors for your federal slaughter activities with this letter.

The occurrence of this inhumane handling incident constitutes a violation of the humane slaughter requirements and supports a conclusion that your handling of livestock violated the provisions of 21 U.S.C. 603, Section 3 (b) of the FMIA, and 7 U.S.C. 1901 and 1902 of the Humane Methods of Slaughter Act of 1978. You failed to meet the regulatory requirements of 9 CFR § 313.15 (a) (1 and 3). The suspension of the assignment of inspectors for federal slaughter activities will remain in effect until you provide written corrective actions and preventive measures to the Jackson District Office, to assure that

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the animals at your establishment will be handled humanely in accordance with the Humane Methods of Slaughter Act and regulations promulgated there under.

Please provide this office with a written response concerning this Notice of Suspension by addressing the following:

- Evaluate and identify the root cause of the incident.
- Explain the specific reason(s) why the event occurred.
- Describe the specific actions taken to eliminate the root cause of the incident.
- Describe specific planned actions that you will take to prevent future recurrences.

Please provide associated records that include monitoring and verification activities that your establishment will use to ensure that the changes made are effectively implemented. We will determine further action, if any, based on your response(s).

As a federally inspected establishment, you are expected to comply with 9 CFR § 313.15 (a) (1 and 3) of the regulations and all other requirements concerning the humane slaughter of livestock. In accordance with 9 CFR § 500.3 (b), we are implementing a suspension of the assignment of inspectors for your federal slaughter activities due to inhumane handling. Establishment management should clearly understand the seriousness of repetitive humane handling violations which could lead to Agency actions, that could result in actions to withdraw the grant of inspection.

You may appeal this action by contacting:

Karen Hunter
Executive Associate for Regulatory Operations
Office of Field Operations
United States Department of Agriculture
Room 3154 South Building
1400 Independence Avenue SW
Washington, D. C. 20250
Telephone: (202) 499-0275

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 9 CFR § 500.5(d), should you request a hearing, FSIS will file a complaint that will include a request for an expedited hearing. You may request a hearing by contacting:

Mailing Address:

Scott C. Safian, Branch Chief
Enforcement Operations Branch
Office of Investigation, Enforcement and Audit
Food Safety and Inspection Service
United States Department of Agriculture
Stop Code 3753, PP3, Cubicle 9-235-A
1400 Independence Avenue, SW
Washington, D. C. 20250

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Fax Number: (202) 245-5097

E-mail: AEBCorrespondence@usda.gov

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 the inhumane treatment of animals. We urge your voluntary cooperation and compliance.

If you have any questions regarding this matter, please contact the Jackson District Office at (601) 965-4312.

Sincerely,

A handwritten signature in blue ink, appearing to read "Larry Davis", followed by the initials "DDM" in black ink.

^{2/}Dr. Larry Davis
District Manager
Jackson District Office

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Cc:

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Dr. Larry Davis, DM (via electronic copy)

Dr. Damon Ranfle, DDM (via electronic copy)

Dr. Kermit Harvey, DDM (via electronic copy)

Mr. Jason Orlando, DDM (via electronic copy)

(b) (6)

Ms. Karen Hunter, EARO (via electronic copy)

Washington, D. C. FSIS HQ personnel (via electronic copy)