



United States Department of Agriculture

Food Safety and
Inspection Service

Office of Field
Operations

Atlanta District Office

100 Alabama St., SW.
Suite 3R90
Atlanta, GA. 30303
Phone: 404-562-5900
Fax: 404-562-5877
Toll Free:
800-282-7005

Certified Mail

March 27, 2024

Mr. Cesar Borges, President/GM
Ganaderos Borges, Inc., Est. M32170
Barrio Hucares
Carretera 192 Km 0.1
Naguabo, PR 00718
cesarborgesjr@borgesmeat.com

NOTICE OF INTENDED ENFORCEMENT

Dear Mr. Borges:

This serves as an official notification by the Food Safety and Inspection Service (FSIS) of our intent to withhold the marks of inspection and suspend the assignment of inspection slaughter personnel at Ganaderos Borges, Inc., Est. M32170, located at Barrio Hucares, Carretera 192 Km 0.1, Naguabo, PR 00718 for failure to effectively implement humane methods of slaughtering and handling of animals in a manner that complies with the regulatory requirements prescribed by the Federal Meat Inspection Act (FMIA) and Humane Methods of Slaughter Act (HMSA).

Background and Authority

The Federal Meat Inspection Act (FMIA) [21 U.S.C. 603 sec. 3. (b)] 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 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 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 establishment 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.” In addition, under prohibited acts, 21 U.S.C. 610 sec 10 (b), “No person, firm or corporation shall,

NOTICE OF INTENDED ENFORCEMENT

Mr. Cesar Borges, President/GM
Ganaderos Borges, Est. M32170
March 27, 2024

with the respect to any cattle, sheep, swine, goats, horses, mules, and other equines, or any carcasses, parts of carcasses, meat or meat food products of any such animals slaughter or handle in connection with slaughter any such animals in any manner not in accordance with sections 1901 to 1906 of Title 7.”

The Humane Methods of Slaughter Act 7 U.S.C 1901 states, “The Congress finds that the use of humane methods in the slaughter 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.

The Humane Methods of Slaughter Act 7 U.S.C 1902 states, “No method of slaughtering or handling in connection with slaughtering shall be deemed to comply with the public policy of the United States unless it is humane.”

Under the authorities of the above Acts, FSIS has prescribed rules and regulations required for establishments engaged in the slaughter of livestock and the production of meat products, including requirements pertaining to Humane Slaughter of Livestock, as required by 9 CFR 313. FSIS has also developed Rules of Practice regarding enforcement (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, and for filing a complaint to withdraw a grant of Federal inspection.

Findings/Basis for Action

This Notice of Intended Enforcement (NOIE) is based upon your establishment being in violation of 9 CFR 313.2(b).

Specifically, on March 26, 2024, at approximately 1430 hours, while performing humane handling verification activities, the Supervisory Public Health Veterinarian (SPHV) observed the following humane handling noncompliance: An establishment employee was striking and poking an excited, stressed, and difficult to handle bull with an electric prod. The bull was very excited, squealing, bellowing and raising to the top of the knocking box trying to get out of the box. The employee struck the bull continuously, more than six times, and we could hear the buzzing sound of the electric prod every time the prod contacted the bull. The points of contact include the right cheek, the right eyelids, the right side of the mouth and muzzle, the right ear, and the top of the head. Several establishment employees from adjacent working stations intervened along with the SPHV to get him to stop. US Rejected Tag # B43276648 was applied to the

NOTICE OF INTENDED ENFORCEMENT

Mr. Cesar Borges, President/GM
Ganaderos Borges, Est. M32170
March 27, 2024

knocking box and plant management was verbally notified of the noncompliance with 9 CFR 313.2(b).

The establishment maintains a Robust Systematic Approach (RSA) for the humane handling of livestock. Because of the fact that several plant employees intervened to stop the action of one employee, regulatory discretion was used and a NOIE was issued.

Summary and Conclusion

In accordance with FSIS' Rules of Practice, 9 CFR Part 500, we are notifying you of our intent to withhold the marks of inspection and suspend the assignment of inspectors for slaughter operations at your facility. Please be advised that as a federally inspected establishment, you are expected to comply with regulations 9 CFR §313.2(b) and all other requirements concerning humane slaughter of livestock.

Please provide this office with a written response concerning corrective actions and preventive measures for this NOIE **within three (3) working days** from the date of your receipt of this letter. Further action, if any, will be based on your response. The corrective actions and preventive measures in your response should address the following:

- Evaluate and identify the nature and cause of the incident.
- Describe the specific actions taken to eliminate the cause of the incident and prevent future recurrences.
- Describe specific monitoring activities planned to ensure future compliance.
- Provide any supporting documentation and records maintained and/or associated with the proposed corrective actions and preventative measures.

Appeal and Hearing Rights

You have the right to appeal this matter and can do so by contacting:

Karen Hunter
Executive Associate for Regulatory Operations
Office of Field Operations
Food Safety and Inspection Service
United States Department of Agriculture
SB, Room 3159
1400 Independence Avenue, SW
Washington, DC 20250
Email: Karen.Hunter@usda.gov
Phone: (202) 499-0275

NOTICE OF INTENDED ENFORCEMENT

Mr. Cesar Borges, President/GM
Ganaderos Borges, Est. M32170
March 27, 2024

Pursuant to 9 CFR 500.5(d), you may also request a hearing regarding this determination. 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, please contact:

Scott C. Safian, Director
Enforcement Operations Staff (EOS)
Office of Investigation, Enforcement and Audit (OIEA)
Food Safety and Inspection Service
United States Department of Agriculture
Stop Code 3753, SB - Room 2148
1400 Independence Avenue, SW
Washington, DC 20250
Telephone: (202) 418-8872
Facsimile: (202) 245-5097
E-mail: AEBCorrespondence@usda.gov

If you have any questions, please contact Dr. Phyllis Adams via telephone at (404) 562-5900 or via electronic mail at Phyllis.Adams@usda.gov. Additionally, you can contact the Atlanta District Office at (404) 562-5900 or by fax at (404) 562-5877.

If you have any questions, please contact the Atlanta District Office at (404) 562-5900.

Sincerely,

PHYLLIS Digitally signed by
PHYLLIS ADAMS
ADAMS Date: 2024.03.27
12:51:32 -0400

Dr. Phyllis Adams
District Manager
Atlanta District Office
USDA/FSIS/OFO

NOTICE OF INTENDED ENFORCEMENT

Mr. Cesar Borges, President/GM

Ganaderos Borges, Est. M32170

March 27, 2024

cc: Karen Hunter, EARO
Phyllis Adams, DM
(b) (6), Humane Handling Enforcement Coordinator
Larry Hortert, OIEA Regional Director
Edward Hepburn, DDM
Barney Welch, DDM
Tracy Bryant, DDM
(b) (6), SEIAO
(b) (6), DCS
(b) (6), DVMS
(b) (6), FLS
(b) (6), SPHV
FO/Quarterly Reports