



August 6, 2024

Meat Processing Career Center
Est. M45705
11446 State Route 762
Orient, OH 43146
(b) (6) @drc.ohio.gov
(614) 877-4362

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Attention: Mr. Robert Caplinger, Plant Manager

NOTICE OF INTENDED ENFORCEMENT

This letter serves as 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 program personnel (IPP), with prior verbal notification, for your Slaughter Process at Meat Processing Career Center, M45705, located at 11446 State Route 762 in Orient, OH. The decision to issue this enforcement action is in accordance with Title 9 of the Code of Federal Regulations (9 CFR), Part 500.3(b) Rules of Practice, based on the determination that your establishment did not handle or slaughter animals humanely. The evidence demonstrates failure to comply with the Federal Meat Inspection Act (FMIA) (21 U.S.C. 603), the Humane Methods of Slaughter Act (HMSA) (7 U.S.C. 1901 *et seq.*), and the regulatory requirements of 9 CFR Part 313.

Background/Authority

The FMIA (21 U.S.C. 603 Section 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, establishment or corporation shall, 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 HMSA 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 slaughter industry; brings about improvement of products and economies in slaughter 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.

Under the authority of the Acts, FSIS has prescribed rules and regulations required for establishments handling and slaughtering livestock, as required by 9 CFR Part 313. FSIS has also developed the Rules of Practice regarding administrative 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 inspection. Specifically, 9 CFR 500.3(b) states that FSIS may issue a suspension without providing prior notification due to handling or slaughtering animals inhumanely.

Findings/Basis for Action

On August 6, 2024, at approximately 0910 hours EDT, the Consumer Safety Inspector (CSI) was verifying stunning effectiveness and consciousness on the rail when the following was observed. The stunning operator applied the pneumatic captive bolt gun to the forehead of a steer while it was restrained in the head catch of the knock box. The steer immediately dropped to the floor of the knock box, and the head in the head restraint went nose up, indicating the animal was unconscious. A security knock was then applied with the pneumatic captive bolt gun. When the establishment released the steer from the head restraint, the animal's head fell into the knock box, and as they opened the side door, the unconscious animal then rolled out onto the floor. Within seconds, the steer blinked and got up onto its feet. It then started to walk in a circle and walked halfway around in a circle when establishment management had retrieved a handheld captive bolt gun and applied it to the poll region of the steer's head. The animal immediately fell to the floor and was rendered insensible. Verbal regulatory control was taken over the knock box, and Mr. Robert Caplinger, Plant Manager, was notified of the findings.

Upon examination of the head after the hide had been removed, two penetrating wounds were observed on the forehead, one approximately 2 inches above the eye and to the left of midline, and the second a little to the right of the first wound, closer to midline. Using a knife sharpening steel, both stunning wounds were probed, and the second application was at an angle towards the ear.

These observations are noncompliant with the regulatory requirements of 9 CFR 313.15(a)(3), which require captive bolt stunned animals to remain in a state of complete unconsciousness through shackling, sticking, and bleeding. Because the animal regained consciousness, this incident is considered egregious.

On September 9, 2004, FSIS published "*Humane Handling and Slaughter Requirements and the Merits of a Systematic Approach to Meet Such Requirements*" in the Federal Register (69 FR 54625). On September 24, 2020, FSIS released FSIS Directive 6900.2 Revision 3, entitled, "*Humane Handling and Slaughter of Livestock*." Additionally, on October 23, 2013, FSIS introduced new guidance, titled "*FSIS Compliance Guide for a Systematic Approach to the Humane Handling of Livestock*." Within the guidance material is information intended to better ensure the humane treatment of livestock presented for slaughter. The guidance material provides a set of practices designed to minimize excitement, discomfort, and accidental injury regarding the humane handling of livestock to include the four components of a robust systematic approach to humane handling.

When an establishment maintains a robust humane handling program, FSIS can exercise regulatory discretion when an inhumane handling or slaughter incident is observed. Your establishment has previously developed and implemented a systematic approach to humane handling that was considered robust. Observations confirm you were implementing the plan accordingly.

Summary and Conclusion

Provisions of the FMIA outline FSIS' ability to refuse to render inspection and indefinitely withdraw inspection from an establishment, provided the establishment is afforded the right to an administrative hearing, when conditions exist where the handling and/or slaughter of livestock was not by a method in accordance with the Act(s). Evidence demonstrates your failure to meet regulatory requirements addressed in 9 CFR 313.15(a)(3), constituting a violation of the humane slaughter requirements, and supporting the conclusion that your handling of livestock violated the provisions of the FMIA and HMSA.

In accordance with the Rules of Practice specified in 9 CFR Part 500.3(b), FSIS is notifying you of our decision to defer withholding the marks of inspection and suspend the assignment of FSIS inspectors from your slaughter process.

Please provide a written response to the Chicago District Office within three (3) business days, inclusive of corrective actions and preventive measures, which 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 preventive measures.

Your proposed corrective actions and preventive measures should include any times and/or dates for completion of these proposed activities.

A determination of further administrative action will be made upon receipt and review of your submitted corrective actions and preventative measures. 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 production of or adulterated products 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.

Appeal Rights

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

Ms. Karen Hunter
Executive Associate for Regulatory Operations
Office of Field Operations
Food Safety and Inspection Service
United States Department of Agriculture
SB, Room 3129
1400 Independence Avenue, SW
Washington, DC 20250
Email: Karen.Hunter@usda.gov
Phone: (202) 499-0275

Mr. Robert Caplinger, Plant Manager
Meat Processing Career Center, Est. M45705

Notice of Intended Enforcement
August 6, 2024

If you have any questions, please contact (b) (6), District Veterinary Medical Specialist (DVMS), at (b) (6) or electronic mail at (b) (6) [@usda.gov](mailto:(b) (6)@usda.gov). Additionally, you may contact the Chicago District Office at (630) 317-1293.

Sincerely,

DONALD FICKEY
Digitally signed by
DONALD FICKEY
Date: 2024.08.06
15:56:14 -05'00'

Dr. Donald B. Fickey
District Manager
FSIS Chicago District