



United States Department of Agriculture

June 28, 2024

American Butchery
Establishment 1400
PO Box 252
Dennis, TX 76439

Hand Delivered and sent via USPS

NOTICE OF INTENDED ENFORCEMENT

Attention: Mr. Zach Hobbs, Owner

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 oral notification, for your Slaughter Hazard Analysis and Critical Control Point (HACCP) processes at American Butchery, Establishment 1400, located at 13640 US Hwy 281, Santo, Texas, 76472. The decision to institute this enforcement action is in accordance with Title 9 Code of the Federal Regulations (CFR) Rules of Practice 500.3(b), based on the determination that your establishment has not handled or slaughtered animals humanely. The evidence demonstrates failure to comply with the Federal Meat Inspection Act (FMIA), 21 United States Code (USC), Section 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 Federal Meat Inspection Act (FMIA) (21 USC 601 *et. seq*) provide it is essential to the public interest that the health and welfare of consumers be protected, by assuring meat and poultry products distributed to them are wholesome, not adulterated, and properly marked, and labeled. The Act gives FSIS the authority, as designated by the Secretary of Agriculture, to prescribe rules and regulations describing sanitation requirements for inspected establishments and provide FSIS program personnel the authority to refuse to allow meat/meat food products or poultry/poultry food products to be marked, labeled, stamped, or tagged as "inspected and passed," to prevent the entry of products into commerce. These Acts provide definitions for the term "adulterated" and further provide FSIS the authority to appoint inspectors to examine and inspect all carcasses, parts of carcasses and products as well as the sanitary conditions of facilities.

Under the delegated authorities of the Act, FSIS has prescribed rules and regulations required for establishments producing meat/meat food products and poultry/poultry food products, including the requirements pertaining to Sanitation Standard Operating Procedures (SSOP) and Sanitation Performance Standards (SPS) (Title 9 CFR Part 416) and other matters. FSIS has also developed the Rules of Practice regarding enforcement (Title 9 CFR, Part 500). The Rules of Practice describe the types of enforcement action 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 Federal Grant of Inspection. FSIS can refuse to render inspection and

indefinitely withdraw inspection from an establishment, provided the establishment is afforded the right to an administrative hearing.

Findings / Basis for Action

On June 28, 2024, at approximately 10:25 a.m., while performing humane handling activities tracking system (HATS) category VIII-Stunning Effectiveness, (b) (6) Consumer Safety Inspector (CSI) observed the following noncompliance:

A steer was loaded into the knocking box and restrained. An establishment employee administered the first knock to the steer's forehead using a captive bolt gun. The steer remained standing, vocalized, and moved its head. The first knock did not render the steer unconscious. The establishment employee then administered a second knock to the steer's forehead using a captive bolt gun. The steer remained standing, vocalized, and moved its head from side to side. The establishment employee then administered a third knock which rendered the steer unconscious. CSI (b) (6) tagged the knocking box with USDA Retain/Reject tag number B45561490 and notified establishment management. He documented this noncompliance on Noncompliance Record (NR) CTE0911060328N/2.

In the past six months your establishment was issued three noncompliance records (NRs) documenting similar noncompliance as follows:

- 4/24/24 NR CTE471404362N/1 for failure to render a steer unconscious with a single stun to produce immediate unconsciousness as required by 9 CFR 313.15 (a)(1)
- 3/14/24 NR CTE3910033813N/1 for failure to render a longhorn animal unconscious with a single stun to produce immediate unconsciousness as required by 9 CFR 313.15 (a)(1)
- 3/13/24 NR CTE3910033813 for failure to render a hog unconscious with a single stun to produce immediate unconsciousness as required by 9 CFR 313.15 (a)(1)

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, titled, *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. American Butchery has a robust written humane handling program.

Conclusion

Your establishment clearly failed to implement effective corrective and preventive measures in response to these repeated humane handling violations. Therefore, it is the decision of the Dallas District Office to issue an NOIE in this matter rather than a Notice of Suspension, as allowed under the Rules of Practice, 9 CFR 500.3(b), which states, *FSIS also may impose a suspension without providing the establishment prior notification because the establishment is handling or slaughtering animals inhumanely*. This decision is intended to allow you an opportunity to improve the establishment humane handling practice as required by all parts of 9 CFR 313.

It is essential that you immediately provide effective, written corrective and preventive measures to prevent inhumane handling and slaughtering at your establishment. We are giving you the opportunity at this time to demonstrate or achieve regulatory compliance. Your written response is expected to contain two items: (1) your findings concerning the reevaluation of the Humane Handling Procedures designed and implemented by your establishment, and (2) your Action Plan, which must include all corrective/preventive measures you will take, are taking, or have taken, and the reasons these actions will prevent recurrence. Please provide this response within three (3) business days from the date of your receipt of this letter. We will determine further action, if any, based on your response.

In accordance with Title 9 CFR 500.5(b)(4), you may contest the basis for this proposed action by contacting:

William Griffin, MS, MPS, MPH
Executive Associate for Regulatory Operations
Office of Field Operations
Food Safety and Inspection Service, USDA
1400 Independence Avenue S.W.
Room 3164, South Building
Washington, DC. 20250
Mobile (b) (6)
William.Griffin1@usda.gov

If you have any questions, please contact (b) (6) District Veterinary Medical Specialist (DVMS), via telephone at (b) (6) or via electronic mail at (b) (6)@usda.gov. Additionally, you may contact me in the Dallas District Office at 214-906-6758 or via electronic mail at Jennifer.mckean@usda.gov.

Sincerely,

JENNIFER
BEASLEY MCKEAN

Digitally signed by JENNIFER BEASLEY
MCKEAN
DN: cn=J.S. Government,
ou=Department of Agriculture,
o=U.S. Government,
c=us, email=jennifer.beasley@mckean,
date=2024.06.28 15:22:22 -0500

Jennifer Beasley-McKean, DVM
District Manager

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cc:

(b) (6) Frontline Supervisor, Fort Worth Circuit
Inspector in Charge, Establishment 1400, Santo, TX

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I received a copy of this Notice of Intended Enforcement Action dated June 28, 2024, on:

6/28/24
Date

(b) (6)

(b) (6)
Signature of FSIS Witness