



January 19, 20234

Hometown Meat Market LLC
Establishment 936
2600 N. FM 973
Austin, TX 78725
cole@kandccattle.com
903-721-16821

HAND DELIVERED & SENT VIA USPS
Amended to correct plant mailing address

Attention: Mr. Anthony Cole Bolton, Plant Owner

NOTICE OF SUSPENSION

This letter serves as official notification by the Food Safety and Inspection Service (FSIS) of our decision to withhold the federal marks of inspection and suspend the assignment of Inspection Program Personnel (IPP) at Hometown Meat Market LLC, Establishment 936, located at 2600 N. FM 973, Austin, TX 78725. This letter follows verbal notification of the suspension action, provided by Dr. Kinsey Naylor-Byles, Deputy District Manager, to Mr. Anthony Cole Bolton, Plant Owner at approximately 11:10 am on January 19, 2024. This action includes your Slaughter Hazard Analysis Critical Control Point (HACCP) processes employed at your establishment.

The decision to institute this enforcement action is in accordance with Title 9 of the Code of Federal Regulations (CFR), Rules of Practice 500.3(b), 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 (9 CFR Part 313).

Background/Authority

The FMIA (21 USC 601 *et seq.*) provides it is essential to the public interest that the health and welfare of consumers be protected, by assuring meat 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 to be marked, labeled, stamped, or tagged as *inspected and passed*, to prevent the entry of adulterated products into commerce. Furthermore, the FMIA provides FSIS the authority to appoint inspectors to examine and inspect the method by which livestock are slaughtered and handled at slaughtering establishments.

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 slaughtering industry; brings about improvement of products and economies in

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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.

Under the authority of the Acts, FSIS has prescribed rules and regulations required for establishments slaughtering and handling 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 impose a suspension without providing prior notification due to handling or slaughtering of animals inhumanely.

Findings/Basis for Action

On January 19, 2024, at approximately 8:32 a.m., while verifying the Humane Handling category VIII effective stun, (b) (6), Consumer Safety Inspector (CSI), observed the following noncompliance. She observed the first steer knocked for the day. The stun operator climbed onto the gate of the knock box and reached through the railing of the gate to administer the knock. This knock box did have a head catch, but it was not operable at the time. The knock was administered, the gate was opened, and the animal was hoisted. As he was being hoisted, CSI (b) (6) noticed his eyes were blinking, and he was breathing out of his nostrils. He was also thrashing and attempting to right himself. An employee then proceeded to stick the animal. The steer continued to blink spontaneously but did not vocalize. The stun operator then turned to CSI (b) (6) and asked if he should administer another knock. CSI (b) (6) told him that he should have administered the second knock prior to hoisting and sticking the steer. The CSI affixed US Retained Tag #B27 647154 on the door of the knock box. The establishment does not have a robust systematic approach to the humane handling of livestock.

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. You do not currently maintain a written humane handling program for consideration.

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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 slaughter and/or handling 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) and 313.15(b)(1)(iii), 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.

Please provide a written response, inclusive of written corrective action and preventative measures, by addressing the following:

- Evaluate and identify the nature, 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.

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 and Hearing Rights

You have the right to appeal this matter and may do so 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

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:

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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 (b) (6), District Veterinary Medical Specialist (DVMS), via telephone at 4 (b) (6) or via electronic mail at (b) (6)@usda.gov. Additionally, you may contact Dr. Kinsey Naylor-Byles, DDM, in the Dallas District Office at 469-371-2317 or by fax at 844-622-0080.

Sincerely,

JENNIFER

BEASLEY MCKEAN

Digitally signed by JENNIFER BEASLEY MCKEAN
DN: c=US, o=U.S. Government, ou=Department of
Agriculture,
0.9.2342.19200300.100.1.1=12001000063383,
cn=JENNIFER BEASLEY MCKEAN
Date: 2024.01.19 14:05:05 -0600

Jennifer Beasley-McKean, DVM
District Manager

cc:

(b) (6), Frontline Supervisor, San Antonio, TX
Inspector in Charge, Establishment 936, Luling, TX

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I received a copy of this Notice of Suspension dated January 19, 2024, on:

Date

Responsible Plant Official

Signature of FSIS Witness