



United States Department of Agriculture

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

August 20, 2020

**Via email: moonlightmeatprocessing@gmail.com
And FedEx Tracking
7713 1362 8135**

Ms. Anne Bays, Owner
Moonlight Meat Processing, Est. M33845
90 AJ Sutton Road
Williamsburg, KY 40769

NOTICE OF INTENDED ENFORCEMENT

Dear Ms. Bays:

On August 20, 2020, a "Notice of Intended Enforcement" (NOIE) was issued to your establishment, Moonlight Meat Processing, Est. M33845, 90 AJ Sutton Road, Williamsburg, KY 40769, for failure to effectively implement humane methods of slaughter and handling of livestock in a manner that complies with the regulatory requirements prescribed by the Federal Meat Inspection Act (FMIA) and the Humane Methods of Slaughter Act (HMSA).

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 § 313.16(a)(1) and (3) which states, "*(a)Utilization of firearms, required effect; handling. (1) The firearms shall be employed in the delivery of a bullet or projectile into the animal in accordance with this section so as to produce immediate*

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unconsciousness in the animal by a single shot before it is shackled, hoisted, thrown, cast, or cut. The animal shall be shot in such a manner that they will be rendered unconscious with a minimum of excitement and discomfort. (3) Immediately after the firearm is discharged and the projectile is delivered, the animal 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 August 20, 2020, at approximately 0815 while performing the Humane Handling Verification Task under HATS Category VIII at Establishment M33485, it was observed that the operator fired the first shot to a Bovine which was still standing. A second shot was delivered by the operator and the animal was clearly standing on all four legs and shaking its head. A third shot was fired which rendered the Bovine insensible to pain as it fell, there were no vocalization or signs of life. A 410-slug hollow point was used with a rifle in all three instances. The kill box (chute) was rejected with Tag number B31989097 and (b) (6) at Moonlight Meat Processing, Est. 33845 M was notified. The establishment currently has a robust systematic approach to humane handling.

Your establishment has had and does maintain a written Robust Systematic Approach to Humane Handling procedure. The document exhibits all four steps of the Federal Register Docket #04-013N. The Jackson Deputy District Manager (DDM), verbally notified you at 1020 hours and informed you that since your establishment is operating under a “Robust Systematic Approach to Humane Handling” procedure, the Jackson District would issue a “Notice of Intended Enforcement” (NOIE). Your establishment has had no recent, within the previous ninety days, documented humane handling noncompliance records issued per the FSIS PHIS database system. This indicates that your establishment has a good recent humane handling history until this incident occurred. The DDM verbally informed you that you have three (3) working days to submit your corrective actions and preventive measures to the Jackson District Office. If you request an extension, it should be submitted in writing to the Jackson District Office.

This incident shows a noncompliance of humane handling that fails to meet the requirements of Humane Methods of Slaughter Act, the Federal Meat Inspection Act, and 9 CFR Part 313. The Notice of Intended

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Enforcement will remain in effect until you provide written assurances of corrective actions and preventive measures to assure that the animals at your establishment will be handled humanely in accordance with the Humane Methods of Slaughter Act and regulations promulgated there under.

It is essential that you immediately provide an effective written corrective actions and preventive measures action plan to prevent future noncompliances with the Humane Methods of Slaughter Act. We are giving you the opportunity at this time to demonstrate: (a) why a decision that your Humane Handling system is inadequate should not be made; and (b) that you have achieved regulatory compliance.

Please provide this office with a written response concerning this NOIE within **three (3) working days** from the receipt of this letter. We expect receipt of your corrective actions and preventive measures by Tuesday, August 25, 2020. We will determine further action, if any, based on your response(s). The corrective actions and preventive measures in your response(s) should address the following:

- Identify the specific reason(s) why the event occurred.
- Describe the specific action(s) that will be implemented to eliminate the cause of the incident and prevent future recurrences.
- Describe the specific monitoring activity or activities that your establishment will take to ensure the action(s) implemented are effective.
- Provide any supporting documentation and records maintained and associated with your proffered corrective actions and preventive measures.

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

You are reminded that as 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 about this action, please contact the Jackson District Office at (601) 965-4312.

Sincerely,

DONALD

FICKEY

Digitally signed by
DONALD FICKEY
Date: 2020.08.20
11:32:46 -05'00'

/FOR

Dr. Larry Davis
District Manager
Jackson District Office

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Cc:

(b) (6)

Dr. Larry Davis, DM (via electronic copy)

Dr. Donald Fickey, DDM (via electronic copy)

Dr. Damon Ranftle, DDM (via electronic copy)

Dr. Kermit Harvey, DDM (via electronic copy)

(b) (6)

Ms. Geraldine French, EARO (via electronic copy)

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