



United States Department of Agriculture

Food Safety and
Inspection Service

Raleigh District Office

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Raleigh, NC. 27609
Voice: 919-844-8400
Fax: 1-844-839-6359

January 26, 2022

EMAIL

Mr. Seth Church, Owner
Wilkes Abattoir, LLC, Est. M19511
347 Thomas Street
North Wilkesboro, NC 28659

NOTICE OF INTENDED ENFORCEMENT

Dear Mr. Church:

This letter confirms the verbal notification given on January 26, 2022, at approximately 1450 hours, by the Food Safety and Inspection Service (FSIS) Inspection Program Personnel (IPP), of the intent to suspend the assignment of inspection program personnel for the slaughter process at your establishment located at 347 Thomas Street, North Wilkesboro, NC, herein after referred to as “your establishment”. This action was initiated in accordance with Title 9 of the Code of Federal Regulations (9 CFR) 500.3, after FSIS determined that your establishment failed to slaughter and handle animals humanely.

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 Notice (54 Fed. Reg. 54625). On September 24, 2020, FSIS released FSIS Directive 6900.2, Revision 3, entitled, “Humane Handling and Slaughter of Livestock.” These documents describe the four components of a systematic approach to humane handling. A review of your systematic approach to humane handling reveals documentation and activities consistent with the four components of a “robust” system as defined. The decision to issue a Notice of Intended Enforcement (NOIE) in lieu of a Notice of Suspension is based on a review of FSIS records identifying your compliance with humane handling regulations; the historical absence and infrequent occurrence of humane handling violations at your establishment; and the successful design and consistent implementation of a robust systematic approach to humane handling.

Background and Authority

The Federal Meat Inspection Act (FMIA) (Title 21 of the United States Code {21 U.S.C.} 603 et seq.) provides that 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 methods 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 slaughtering 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 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.

The Humane Methods of Slaughter Act of 1978 (7 U.S.C. 1901 et seq.) 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 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 authorities of the above Acts, FSIS has prescribed rules and regulations for establishments engaged in the slaughter of livestock and the production of meat products, including requirements pertaining to humane handling of livestock in connection with slaughtering operations in 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

At approximately 1215 hours on Wednesday, January 26, 2022, at Wilkes Abattoir, LLC, Est. M19511, IPP identified an egregious humane handling non-compliance in which there were multiple attempts to stun a hog before it was rendered unconscious. IPP stepped off the kill floor while an establishment employee attempted to stun the hog using a .444 rifle. After the first shot, IPP could hear the hog vocalizing, and when IPP stepped back onto the kill floor, they observed the hog still standing and moving around in the knock box. Establishment employees did not have a back-up bullet for the rifle, so the Plant Manager went to retrieve another bullet from the establishment's office. Upon his return, the rifle was reloaded, and the employee rendered the hog unconscious with the second stun attempt. IPP applied US Retain/Reject Tag # B30-323015 to the knock box to prevent further slaughter of livestock; this is in accordance with 9 CFR 313.50(c). IPP notified establishment personnel of the suspension of the assignment of inspection at approximately 1450 hours.

The occurrence of this inhumane handling incident as observed supports a conclusion that your methods of handling livestock violated the provisions of 21 U.S.C. 603, Section 3 (b) of the FMIA, 7 U.S.C 1902 of the HMSA of 1978, and 9 CFR 313. Specifically, you failed to meet the requirements of 9 CFR 313.16(a)(1) which states, in part, that the firearm should be applied to livestock in such a manner that it produces immediate unconsciousness in the animals. This incident requires further enforcement actions because there was a failure to immediately apply an effective corrective action.

As stated earlier, a review of your systematic approach to humane handling reveals documentation and activities consistent with the four components of a “robust” system as defined in FSIS Directive 6900.2, Revision 3. The decision to issue a Notice of Intended Enforcement (NOIE) in lieu of a Notice of Suspension is based on a review of FSIS records identifying your compliance with humane handling regulations; the historical absence and infrequent occurrence of humane handling violations at your establishment; and the successful design and consistent implementation of a robust systematic approach to humane handling. Furthermore, the Raleigh District Office determined that your establishment is operating under an animal handling program that provides for how your establishment will respond if an unforeseeable event of this type occurs; and there is no basis for concern that the planned response in your animal handling program will not effectively address the problem.

In conclusion, the suspension of your slaughter process is warranted as provided in 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*”. Before we proceed with the suspension enforcement action, we are affording you the opportunity to demonstrate that the egregious act described above was an anomaly, and that your corrective and preventive measures were thorough and implemented in a manner to prevent recurrence of the incident

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

1. Identify the specific reason(s) why the events described occurred.
2. Describe the specific action(s) that will be taken to eliminate the cause of the incident and prevent future recurrences.
3. Describe specifically the future monitoring activity (ies) that your establishment will use to ensure that the actions taken are effective.

It is our hope that this matter can be resolved quickly. If you have any questions, you may call me at 919-208-2945 or contact me via email at todd.furey2@usda.gov. You may also contact Mr. Mark Roling, Deputy District Manager, at 919-208-2935. We urge your cooperation and voluntary compliance.

Sincerely,

**ROGER
MURPHY**

Digitally signed by ROGER
MURPHY
Date: 2022.01.26 15:44:49
-05'00'

Todd Furey
District Manager
Raleigh, NC

cc:

P. Bronstein, AA/FO

H. Sidrak, DAA/FO

S. Johnson, EARO/FO

P. Wolseley, EARO/FO

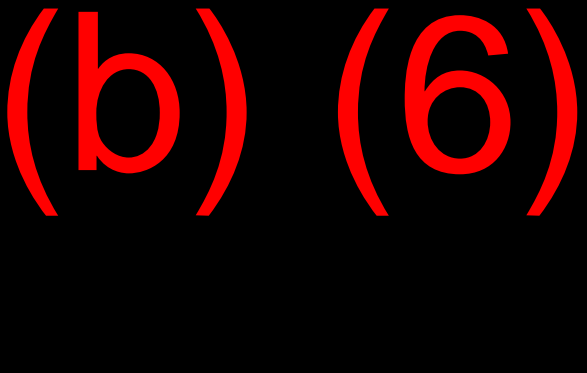
S. Safian, ELD/OIEA

L. Hortert, RD/CID/OIEA

R. Murphy, DDM/RDO/FO

M. Roling, DDM/RDO/FO

A. Thompson, DDM/RDO/FO



Quarterly Enforcement Report
Establishment File (Est. M19511)