



Food Safety and
Inspection Service

Alameda District
800 Buchanan St.
Albany, CA 94710

Phone: (510) 769-5712

Fax: (844) 622-0081

January 26, 2022

Dr. Samuel Garcia, Manager
University of Arizona
Food Products and Safety Laboratory
Establishment M966
4181 North Campbell Avenue
Tucson, AZ 85719

**CERTIFIED RETURN
RECEIPT REQUESTED**

E-mail: srgarcia@arizona.edu

NOTICE OF INTENDED ENFORCEMENT

Dear Dr. Garcia,

This serves as an official notification by the Food Safety and Inspection Service (FSIS), Alameda District, of our intent to withhold the marks of inspection and suspend the assignment of inspectors for the slaughter operations in accordance with 21 U.S.C. 603 and Title 9 Code of Federal Regulations (CFR) Part 500.3 (b). This action was initiated due to your firm's failure to maintain or implement required controls to prevent the inhumane handling and slaughtering of livestock at your establishment and to appropriately handle animals in accordance with Title 9 CFR 313.15(a)(1). This is in violation of 21 U.S.C. 603(b) of the Federal Meat Inspection Act, the Humane Methods of Slaughter Act of 1978, and the regulations promulgated thereunder.

You are required to respond to this notice adequately, in writing, addressing the regulatory noncompliance in this notice. Failure to respond adequately within three (3) business days from the date of receipt of this notice may result in the suspension of the assignment of inspectors at your establishment. FSIS will evaluate your response and will determine if any further administrative enforcement action will be necessary.

Background/ Authority

The Federal Meat Inspection Act (FMIA) (21 USC 603 et seq.) provides for the purpose of preventing the inhumane slaughtering of livestock that FSIS has the authority, as designated by the Secretary of the Department of Agriculture, to prescribe rules and regulations describing examine and inspect 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 the Act. FSIS may refuse to provide inspection to a new slaughtering establishment or may cause inspection to be temporarily suspended at a slaughter establishment if FSIS 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 U.S.C. Title 7 until the establishment

furnishes assurances satisfactory to FSIS that all slaughtering and handling in connection with the slaughter of livestock shall be in accordance with such a method.

Under the authorities of the Act, FSIS has prescribed rules and regulations required for the humane slaughtering of livestock, as contained in Title 9 CFR Part 313, and the Humane Methods of Slaughter Act of 1978. FSIS has also developed Rules of Practice regarding enforcement prescribed in Title 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, as well as the procedures for filing a complaint to withdraw a Grant of Federal Inspection.

Findings/Basis for Action

On January 26, 2022, the FSIS Consumer Safety Inspector (CSI) observed your establishment's failure to conduct slaughter of livestock in accordance with the regulatory requirements. At approximately 0945 hours, the CSI observed a steer with its head secured in the head catch restrainer prior to stunning. (b) (6), placed a handheld captive bolt gun to the forehead of the steer and discharged the captive bolt. The captive bolt penetrated the skull of the steer as there was blood visible on the forehead. The steer went down on its front knees with its head still captured in the head catch. The CSI observed that the steer was slowly blinking, and its eyes were tracking. As (b) (6) quickly waved his hand over the eyes, the CSI observed blinking, eye movement, and vocalization from the steer.

(b) (6) reloaded the handheld captive bolt gun and issued a second stun, which again penetrated the skull. However the steer remained standing on its hind legs with its front legs buckled, still blinking and looking around. (b) (6) retrieved the backup handheld captive bolt gun and placed it on the forehead to attempt to stun the steer for a third time, but the gun did not discharge the bolt when detonated. He reloaded the backup device for a fourth attempt, and again it did not discharge the bolt. Throughout these four stunning attempts, the steer was vocalizing and bleeding from its forehead. (b) (6) then reloaded the primary handheld captive bolt gun and applied it to the steer's forehead. After this fifth attempt, the steer was rendered unconscious.

FSIS inspection program personnel inspected the animal's skull and counted two holes that were low on the forehead and did not penetrate the brain case, and one hole that did penetrate the brain case.

This is an egregious noncompliance of inhumane handling of animals in connection with slaughter, as this animal was not rendered insensible upon the initial knock, and the immediate corrective actions including additional stunning blows did not render the animal unconscious until the animal was effectively knocked. This is a violation in accordance with Title 9 CFR 313.15(a)(1) which states in part: *"The captive bolt stunners shall be applied to the livestock in accordance with this section so as to produce immediate unconsciousness in the animals before they are shackled, hoisted, thrown, cast, or cut."* This constitutes failure to adhere to the regulatory requirements of the humane handling and slaughter of livestock, as required by the Federal Meat Inspection Act, 21 U.S.C. 603(b), the Humane Methods of Slaughter Act, and the regulations promulgated thereunder.

The CSI informed (b) (6) that they would be tagging the knock box, all further stunning would cease, and the CSI would be contacting their supervisors. The CSI applied U.S. Rejected Tag # B27 767864 to the knock box. The Supervisory Public Health Veterinarian informed you of the action taken.

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."* 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 intended to better ensure the humane treatment of livestock presented for slaughter. The compliance guide provides a set of practices designed to minimize excitement, discomfort and accidental injury of livestock. These documents describe the four components of a robust systematic approach to humane handling. The decision to issue a Notice of Intended Enforcement (NOIE) in lieu of a Notice of Suspension (NOS) is based on your establishment implementing and maintaining a robust systematic approach to humane handling.

Please provide this office with a written response to 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. In addition, failure to respond to this NOIE and failure to assure that you handle and slaughter animals at your establishment humanely, in accordance with the statutory and regulatory requirements, may result in further administrative enforcement actions.

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

Sherril N. Johnson
Executive Associate for Regulatory Operations
Office of Field Operations
Food Safety and Inspection Service
United States Department of Agriculture
1400 Independence Avenue, SW
SB, Room 1330A
Washington, DC 20250
Phone: (202) 379-6196

If you have any questions, please call the Alameda District Office at (510) 769-5712.

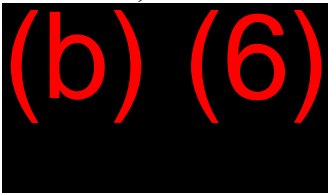
Sincerely,

/s/ Frank Gillis
Deputy District Manager
(for)

William Griffin
District Manager

cc:

A. Amin, DDM
V. Felix, DDM
F. Gillis, DDM



S. Johnson, EARO
S. Baucher, IEA, RD
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