



United States Department of Agriculture

Food Safety and
Inspection Service

Raleigh District Office

6020 Six Forks Road
Raleigh, NC. 27609
Voice: 919-844-8400
Fax: 1-844-839-6359

March 29, 2022

EMAIL

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

NOTICE OF SUSPENSION

Dear Mr. Church,

This letter confirms the verbal notification given on March 29, 2022, at approximately 0930 hours, by the Food Safety and Inspection Service (FSIS) Inspection Program Personnel (IPP) of the suspension of the assignment of inspectors for slaughter operations at Wilkes Abattoir, LLC, Est. M19511, 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.

Background/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.

Findings/Basis for Suspension

At approximately 0915 hours on Tuesday, March 29, 2022, at Wilkes Abattoir, LLC, Est. M19511, IPP identified a humane handling non-compliance in which there were multiple attempts to stun a beef steer. While performing the 60-Day Humane Handling (HH) Verification Assessment following the issuance of a Notice of Deferral (NOD) for a previous HH stunning noncompliance, IPP and the District Veterinary Medical Specialist (DVMS) observed as a beef steer was loaded into the knock box and secured in the head catch device. The steer was agitated and trying to move in the knock box. The employee attempted to stun the steer using a .25 caliber hand-held captive bolt stunning device (HHCB). After the initial stun attempt, the steer vocalized, remained standing, and continued to move its head. The employee immediately reloaded the same HHCB device and applied a second stun attempt which rendered the steer unconscious. After the head had been removed, IPP observed that there were two holes in the steer's skull: one hole slightly low and to the right-of-center and one hole in the correct location. Because the establishment is currently operating under a NOD for the previous HH stunning noncompliance, the DVMS informed establishment management of the pending Notice of Suspension at approximately 0935 hours. IPP applied US Retain/Reject Tag #B30324221 to the knock box to prevent further slaughter of livestock, in accordance with 9 CFR 313.50(c).

This incident represents a violation of 9 CFR 313.15(a)(1), which states "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. The animals shall be stunned in such a manner that they will be rendered unconscious with a minimum of excitement and discomfort." This incident warrants a Suspension action because there were multiple attempts to stun the steer and because the establishment is already operating under a Notice of Deferral for a previous HH stunning incident. In response, the Raleigh District Office (RDO) is issuing a Suspension Without Prior Notification, in accordance with regulatory authority granted in 9 CFR 500.3(b).

The suspension action will remain in effect until you provide the Raleigh District Office with adequate written assurances, including corrective actions and further planned preventive measures, to assure that livestock at your establishment are slaughtered humanely. In order to resume inspected operations, you must submit corrective actions to my attention at the District Office. These corrective actions should include at a minimum the following:

1. Identify the assessment process used to determine the nature and cause of the noncompliances.
2. Identify what the assessment revealed as the likely cause of the system failure.
3. Describe the specific actions that will be taken to eliminate the cause of the failures.
4. Describe the future monitoring activities you will use to ensure that changes are implemented and are effective.

You are reminded that, as an operator of a federally inspected plant, you are expected to comply with FSIS regulations and to take appropriate corrective actions to prevent inhumane handling of livestock 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. Please also be advised that you have the right to appeal this matter.

In accordance with 9 CFR 500.5(a)(5), you may appeal this action by contacting:

Sherri Johnson
Executive Associate for Regulatory Operations
Office of Field Operations
Food Safety and Inspection Service
United States Department of Agriculture
1400 Independence Avenue, SW
South Building, Room 3154
Washington, DC 20250
Phone: (202) 205-0001

In addition, you may also request a hearing regarding this determination pursuant to FSIS' Rules of Practice (9 CFR 500.). The rules of Practice were published in the Federal Register, Vol. 64, No. 228, on November 29, 1999. As specified in Section 500.5(d), 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, you should contact:

Scott C. Safian, Branch Chief
Enforcement Operations Branch
Office of Investigation, Enforcement and Audit
Food Safety and Inspection Service
Stop Code 3753, PP3, Cubicle 9-235-A
1400 Independence Avenue, SW
Washington, D.C. 20250
Voice: (202) 418-8872
Fax: (202) 245-5097

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,

ARIAL
THOMPSON

Digitally signed by ARIAL
THOMPSON
Date: 2022.03.30 08:40:49
-04'00'

Todd Furey
District Manager
Raleigh, NC

cc:

P. Bronstein, AA/FO

H. Sidrak, DAA/FO

S. Johnson, EARO/FO

P. Wolseley, EARO/FO

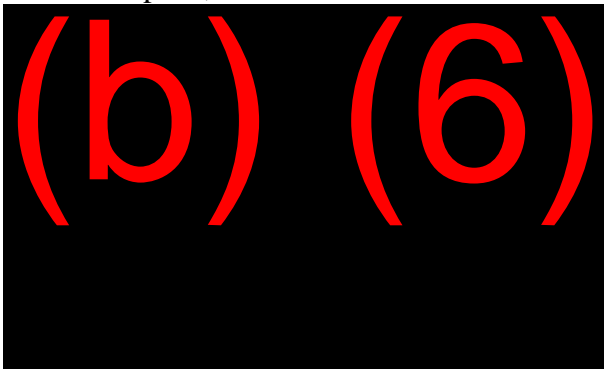
S. Safian, ELD/OIEA

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)