



United States Department of Agriculture

Food Safety and Inspection
Service

April 28, 2022

Office of Field Operations
Jackson District Office
713 S Pear Orchard Rd.
Plaza 2, Suite 402
Ridgeland, MS 39157

Via Email:
larry.masters@undergroundslaughter.com
And FedEx Tracking
#776716228206

Mr. Larry Masters, Owner
Underground Slaughter, LLC, Est. M51351
6821 Franks Ferry Road
Walling, TN 38587

NOTICE OF SUSPENSION

Dear Mr. Masters:

On April 28, 2022, a “Notice of Suspension” was issued to suspend the assignment of inspectors for your federal slaughter activities at Underground Slaughter, LLC, 6821 Franks Ferry Road, Walling, TN, 38587, Est. M51351. This action was based on your establishment’s failure to handle livestock humanely according to 9 CFR Part 313.

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 § 313.15 (a)(1) and (3) which states, “(a) *Application of stunners, required effect; handling. (1) The captive bolt stunners shall be applied to the livestock in accordance*

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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. (3) Immediately after the stunning blow is delivered the animals 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 April 28, 2022, at approximately 0720 hours, the CSI was observing stunning procedures at Establishment M51351. The first animal to be slaughtered for the day (lamb) was being manually restrained by two of your plant employees during the stunning procedure. One of your employees applied the stunning device (captive bolt) to the lamb’s head and the stun was ineffective in causing immediate insensibility. Your employees lost control of the animal and it ran back into the holding pen bleeding from its nose and mouth. Your establishment did not have a backup stunning device available and instead reloaded the same captive bolt device used for the initial stun and applied a second stunning attempt. The second attempt to stun was also ineffective and did not cause immediate insensibility, and again your employees lost manual restraint of the animal and had to retrieve it from the holding pen again. Your employee performing the stunning again reloaded the captive bolt device and applied a third stun. The third stun rendered the animal insensible, and it remained so thereafter. The CSI informed your (b) (6) of the non-compliance and that he would be taking a regulatory control action. The CSI placed US Reject tag #B33648053 to the stunning area at 0728 hours.

On April 28, 2022, at approximately 9:30 AM CDT, a DDM from the Jackson District Office, contacted you telephonically and informed you that the withholding action to suspend the federal slaughter activities at your facility was sustained. You are herein receiving written notification of the suspension of the assignment of inspectors for your federal slaughter activities with this letter.

The occurrence of this inhumane handling incident constitutes a violation of the humane slaughter requirements and supports a conclusion that your handling of livestock violated the provisions of 21 U.S.C. 603, Section 3 (b) of the FMIA, and 7 U.S.C. 1901 and 1902 of the Humane Methods of Slaughter Act of 1978. You failed to meet the regulatory requirements of 9 CFR § 313.15 (a) (1 and 3). The suspension of the assignment of inspectors for federal slaughter activities will remain in effect until you

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provide written corrective actions and preventive measures to the Jackson District Office, 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.

Please provide this office with a written response concerning this Notice of Suspension by addressing the following:

- Evaluate and identify the root cause of the incident.
- Explain the specific reason(s) why the event occurred.
- Describe the specific actions taken to eliminate the root cause of the incident.
- Describe specific planned actions that you will take to prevent future recurrences.

Please provide associated records that include monitoring and verification activities that your establishment will use to ensure that the changes made are effectively implemented. We will determine further action, if any, based on your response(s).

As a federally inspected establishment, you are expected to comply with 9 CFR § 313.15 (a) (1 and 3) of the regulations and all other requirements concerning the humane slaughter of livestock. In accordance with 9 CFR § 500.3 (b), we are implementing a suspension of the assignment of inspectors for your federal slaughter activities due to inhumane handling. Establishment management should clearly understand the seriousness of repetitive humane handling violations which could lead to Agency actions, that could result in actions to withdraw the grant of inspection.

You may appeal this action by contacting:

Melissa Moore

Executive Associate for Regulatory Operations

Office of Field Operations

United States Department of Agriculture

1400 Independence Avenue SW

Room 3159 – South Building

Washington, D. C. 20250

Telephone: (202) 450-0330

melissa.moore1@usda.gov

In addition, you may also request a hearing regarding this determination pursuant to FSIS Rules of Practice, 9 CFR Part 500. The Rules of Practice were published in the Federal Register, Vol. 64, no 228, on November 29, 1999. As specified in 9 CFR § 500.5(d), should you request a hearing, FSIS will file a complaint that will include a request for an expedited hearing. You may request a hearing by contacting:

Mailing Address:

Scott C. Safian, Branch Chief

Enforcement Operations Branch

Office of Investigation, Enforcement and Audit

Food Safety and Inspection Service

United States Department of Agriculture

Stop Code 3753, PP3, Cubicle 9-235-A

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April 28, 2022

1400 Independence Avenue, SW

Washington, D. C. 20250

Fax Number: (202) 245-5097

E-mail: AEBCorrespondence@usda.gov

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 inhumane treatment of animals. We urge your voluntary cooperation and compliance.

If you have any questions regarding this matter, please contact the Jackson District Office at (601) 965-4312.

Sincerely,

LARRY DAVIS Digitally signed by LARRY
DAVIS
Date: 2022.04.28 11:07:43
-05'00'

Dr. Larry Davis
District Manager
Jackson District Office

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Cc:

(b) (6)

Dr. Larry Davis, DM (via electronic copy)

Dr. Damon Ranftle, DDM (via electronic copy)

Dr. Kermit Harvey, DDM (via electronic copy)

Mr. Jason Orlando, DDM (via electronic copy)

(b) (6)

Ms. Melissa Moore, EARO (via electronic copy)

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