



United States Department of Agriculture

Food Safety and
Inspection Service

June 23, 2022

Office of Field
Operations
Denver District Office

**SENT VIA FEDEX &
ELECTRONIC MAIL**

1 Denver Federal
Center, Bldg. 45
P.O. Box 25387
Denver, CO 80225

Gerry Marlow, Plant Manager
AK's Midstate Meats, LLC, Est. 40463 M/V
1561 Levee Way
North Pole, Alaska 99705
AksMidstateMeats@gmail.com

Voice (303) 236-9800
Fax (303) 236-9794

NOTICE OF SUSPENSION

Dear Mr. Marlow,

This letter confirms the verbal notification provided to your establishment, AK's Midstate Meats, LLC, Est. 40463 M/V, located in North Pole, Alaska on Thursday, June 23, 2022, by the Food Safety Inspection Service (FSIS), Denver District, of the suspension of the assignment of inspectors and the withholding of the marks of inspection at your establishment for slaughter operations. Jenifer Monteverde, Deputy District Manager, verbally notified you of the suspension. This action was initiated in accordance with Title 21 of the United States Code (USC), Section 603(b) and Title 9 of the Code of Federal Regulations (CFR) Part 500.3(b) (Rules of Practice).

Background Authority

The Federal Meat Inspection Act (FMIA), 21 USC Section 603(b), provides for the purpose of preventing the inhumane slaughtering of livestock. The FMIA gives FSIS the authority, as designated by the Secretary of the Department of Agriculture, to prescribe rules and regulations describing examinations and inspections of the method by which cattle, sheep, swine, goats, horses, mules, and other equines are slaughtered in the establishments inspected under the FMIA. The FMIA also provides FSIS Program personnel the authority to suspend operations at a slaughtering 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 establishments by any method not in accordance with the Humane Methods of Slaughter Act (HMSA) of August 27, 1958 (72 Statute 862; Title 7 USC, Sections 1901-1906), until the establishment furnishes FSIS with satisfactory assurances that all slaughtering and handling in connection with the slaughter of livestock shall be in accordance with such methods.

Under the authorities of these Acts, FSIS has prescribed rules and regulations required for the humane slaughtering of livestock, contained in Title 9 CFR Part 313. FSIS has also developed Rules of Practice regarding enforcement prescribed in 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.

Finding/Basis for Action

On Thursday, June 23, 2022, the FSIS Supervisory Public Health Veterinarian (SPHV) documented in a Noncompliance Record (NR) the following event at Est. M40463:

“At approximately 9:30am on Thursday 06/23/2022 while verifying HATS Category VIII Stunning Effectiveness on the kill floor, I, the Supervisory Public Health Veterinarian, and the CSI observed the following non-compliance. I observed the plant manager performing as stun operator, administer four stun attempts to render a steer unconscious utilizing a .357 revolver for all attempts. The stun operator did not have to reload the revolver in between stunning attempts. Following the first stun attempt, I observed the animal remain standing with moderate movement of legs and body. No vocalization was observed. I observed the stun operator immediately apply the second stun. Following the second stun attempt, I observed the animal’s rear end drop to a sitting position, and then the animal stood back up on all four legs and continue to move around within the stun box. I observed the stun operator immediately apply the third stun. Following the third stun, I observed the animal’s rear end drop to a sitting position. I observed the stun operator remove the firearm from the kill floor. The animal was left in the stun box in the sitting position. After approximately 60 seconds, I moved positions to be able to better observe the animal for signs of consciousness. I observed that the animal’s neck had been cut and was bleeding. I observed the animal gasping for breath with controlled tongue movements and nostrils flaring. After approximately another 60 seconds, the stun operator retrieved the firearm and applied the fourth stun which effectively rendered the animal unconscious. [The animal collapsed onto the floor.] The CSI and I inspected the dressed head and observed four penetrating stun holes. All four holes were rostral on the forehead. One hole entered the nasal cavity. The three remaining holes entered the skull at the very rostral tip of the brain cavity but did not penetrate the brain; there was no visible damage to the brain.

The stun box was rejected with US Reject/Retain tag no. B37157092.

The plant manager was verbally notified of the impending non-compliance.

The Denver District Management team was contacted through supervisory channels.

This noncompliance report (NR) is being associated to NZS001603018N/1 issued on 3/28/2022 for the same root cause.”

Summary

The decision to suspend the assignment of inspectors at your establishment is based on noncompliance with 9 CFR 313.16(a)(1) and 313.16(a)(3). This is an inhumane noncompliance, whereby multiple stunning attempts were required to render a steer unconscious and also maintain complete unconsciousness throughout the sticking and bleeding steps.

The suspension of the assignment of inspectors will remain in effect until such time as you provide the Denver District Office adequate written corrective actions and preventative measures to ensure that livestock at your establishment are handled and slaughtered humanely, and in accordance with the FMIA, the HMSA, and 9 CFR 313 regulations.

These should include:

- A written description of the incident.
- The root cause of the incident
- Your immediate corrective actions.
- Your specific corrective actions to prevent reoccurrence of the noncompliance.
- Any training or retraining of employees you plan to provide, including materials you’re planning to use.
- Any monitoring procedures, including any documentation records.

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

Paul Wolseley
Executive Associate for Regulatory Operations
Office of Field Operations
Food Safety and Inspection Service
United States Department of Agriculture
1400 Independence Avenue, SW
Room 1329, South Building
Washington, D.C. 20250
Tel: 202-708-9506
Paul.Wolseley@usda.gov

In accordance with 9 CFR Part 500.5 (d), you may request a hearing concerning this action by contacting:

Scott C. Safian
Enforcement and Litigation Division
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

If you have any questions regarding this matter, you may contact the Denver District Office at (303)236-9800.

Sincerely,

ROBERT REEDER

Digitally signed by ROBERT
REEDER
Date: 2022.06.23 15:12:02 -0600

Dr. Robert Reeder
District Manager
USDA FSIS OFO
Denver District Office
Robert.Reeder@usda.gov

cc: FO/QER
Est. File
D. James, DDM
J. Monteverde, DDM
J. VanHook, DDM

(b) (6)

S. Baucher, RD/OIEA