



Food Safety and  
Inspection Service

Alameda District  
800 Buchanan St.  
Albany, CA 94710

Phone: (510) 769-5712

Fax: (844) 622-0081

August 17, 2022

(b) (6)

American Beef Packers, Inc.  
Establishment 34741 M  
13677 Yorba Avenue  
Chino, CA 91710

**CERTIFIED RETURN-  
RECEIPT REQUESTED**

(b) (6)  
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## NOTICE OF INTENDED ENFORCEMENT

Dear (b) (6)

This serves as an official notification on August 17, 2022, 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 is 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 in accordance with Title 9 CFR Part 313.2(a). This is a noncompliance with 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.

We are issuing this Notice of Intended Enforcement (NOIE) to replace the Notice of Suspension (NOS) dated June 15, 2022. This is in response to the letter dated July 21, 2022, from your establishment requesting to appeal the Notice of Suspension. This appeal was initially sent to the Executive Associate for Regulatory Operations (EARO) on July 26, 2022. After reviewing the documentation provided, as per the EARO's response dated August 16, 2022, the Alameda District Office will remove the Notice of Suspension and reissue it as a NOIE. The NOIE will be issued in the place of the NOS as your employees still failed to maintain or implement required controls to prevent the inhumane handling and slaughter of livestock in accordance with Title 9 CFR 313.2(a). The non-compliance is valid and therefore will stand.

### **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 June 15, 2022, the FSIS Frontline Supervisor (FLS) and Supervisory Public Health Veterinarian (SPHV) observed your establishment's failure to conduct the handling of livestock in accordance with the regulatory requirements. At approximately 1200 hours, the FLS and SPHV walked to the corral area at your establishment to verify compliance with humane handling requirements. They observed one semitrailer backed up to the unloading ramp and heard loud vocalization of cattle coming from the trailer. Upon closer look, the FLS and SPHV observed overcrowding of cattle on the lower level of the trailer, approximately 19 head, loaded in the lower middle section of the trailer. There were cows lying down on top of other cows, most of them were panting and some were overturned with hooves in the air. Many of the animals displayed signs of discomfort and injury, had open mouth breathing and frothy secretions from the mouth and nostrils. The FLS and SPHV immediately notified (b) (6) (b) (6) and (b) (6) of the distressed animals on the trailer. In this crucial situation due to the extreme temperatures (92°F) and overcrowding conditions, the livestock were not timely unloaded until the FLS and SPHV approached plant management to notify them of the conditions observed.

(b) (6) and establishment employees started euthanizing the nonambulatory cattle at the unloading end of the trailer before (b) (6) arrived in the area. Establishment employees euthanized and removed several of the non-ambulatory animals from the trailer. During this action several plant employees began using the rattle paddles in an attempt to get the animals to rise. When those efforts using the rattle paddles were unsuccessful, the employees then began lifting the animals by their tails to upright them and get them to stand. FSIS personnel informed (b) (6) of the observations and requested the employees use a different method to get them to stand. Plant employees started using rattle paddles to get the cattle to stand.

On the second level of the trailer, the FLS and SPHV further observed several cattle trampling on nonambulatory cattle while being unloaded from the trailer.

The SPHV was informed by (b) (6) that the steers were from Superior Feedlot and had foot and leg problems in addition to swollen joints.

The establishment employees unloaded a total of 19 Holstein steers that were held as U.S. Suspects; and 11 were euthanized and condemned.

The FLS informed (b) (6) that FSIS inspection program personnel would be tagging the restrainer so that no stunning and slaughter could occur. The SPHV applied U.S. Rejected Tag # B35489676 to the restrainer.

This event is an egregious noncompliance of inhumane handling of animals in connection with slaughter, as the nonambulatory cattle on the trailer were not handled with a minimum of excitement or discomfort. This is a violation in accordance with Title 9 CFR 313.2(a) which states in part: *“Driving of livestock from the unloading ramps to the holding pens and from the holding pens to the stunning area shall be done with a minimum of excitement and discomfort to the animals.”* 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. In FSIS Directive 6900.2, Revision 3, one definition of egregious inhumane handling describes *“Otherwise causing unnecessary pain and suffering to animals, including situations on trucks.”*

These findings demonstrate your 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) and the Humane Methods of Slaughter Act, and the regulations promulgated thereunder. In accordance with Title 9 CFR 500.5(b)(4), you may contest the basis for this proposed action by contacting:

Sherri 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

A. Darwish, Acting DDM



S. Johnson, EARO

S. Baucher, IEA, RD

USDA IIC, Est. 34741 M

FO/QR