



Food Safety and  
Inspection Service

August 17, 2022

Alameda District  
800 Buchanan St.  
Albany, CA 94710

Phone: (510) 769-5712

Fax: (844) 622-0081

(b) (6)  
American Beef Packers, Inc.  
Establishment 34741 M  
13677 Yorba Avenue  
Chino, CA 91710

**CERTIFIED RETURN-  
RECEIPT REQUESTED**

(b) (6)

## NOTICE OF SUSPENSION

Dear (b) (6)

This serves as an official notification on August 17, 2022, by the Food Safety and Inspection Service (FSIS), Alameda District, of the withholding of the marks of inspection and the suspension of the assignment of inspectors for the Slaughter operations at your establishment 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 313.15(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.

These observations indicate that the corrective actions and preventive measures you proffered in response to the Notice of Intended Enforcement (NOIE) that was issued on August 17, 2022, which discussed your failure on June 15, 2022, to prevent the inhumane handling and slaughtering of livestock at your establishment, were ineffective and/or not implemented to ensure that your establishment adheres to the regulatory requirements of the humane handling and slaughter of livestock.

### **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 July 20, 2022, the FSIS inspection program personnel observed your establishment's failure to conduct the slaughter of livestock in accordance with the regulatory requirements. The FSIS Humane Handling Consumer Safety Inspector (CSI) reported to the Supervisory Public Health Veterinarian (SPHV) that he saw a dairy cow loose in the parking lot in front of the unloading ramp, and establishment employees were trying to herd it back into holding pen #5. The CSI observed the employees herd the cow back to the stunning operations and up the serpentine.

Upon this notification from the CSI, the SPHV approached the serpentine and observed that the dairy cow was bleeding from a wound in its head, but was still standing, blinking, and looking around. (b) (6), herded the cow back into the restrainer and an establishment employee stunned the cow using a handheld captive bolt gun. The employee applied the stun to the back of the head (poll) which rendered it unconscious.

The SPHV applied USDA Rejected tag # B35 489819 to the restrainer and notified (b) (6) (b) (6) and (b) (6) of the noncompliance and that no further slaughter could occur due to the inhumane handling of livestock.

After the establishment employees split the skull, the SPHV observed a hole that penetrated the skull on the midline but was approximately 3/4 inches below the frontal end of the cranial cavity and did not penetrate the brain. The SPHV confirmed that there was also damage to the poll region.

This is an egregious act of inhumane handling of animals in connection with slaughter, as your establishment failed to effectively stun the cow on the first attempt. 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 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 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.

Previously, on August 17, 2022, the Alameda District Office notified your establishment of our intent to withhold the marks of inspection and suspend the assignment of inspectors at your facility in accordance with 21 U.S.C. 603 and Title 9 Code of Federal Regulations (CFR) Part 500.3(b). This Notice of Intended Enforcement was initiated due to your firm's similar failure on June 15, 2022, to maintain or implement required controls to prevent inhumane handling of cattle at your establishment. Specifically, you failed to appropriately handle animals in accordance with Title 9 CFR 313.2(a). These events were 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. As stated in the Letter of Deferral dated August 17, 2022, your establishment's failure to comply with regulatory requirements or effectively implement your commitments and agreements may result in further enforcement actions taken, including the suspension of inspection services in your establishment.

The Federal Meat Inspection Act 21 U.S.C. Section 603(b) provides legal authority to suspend operations at any establishment where animals have not been handled in a humane manner as described in 7 U.S.C. 1901 where it states, "*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.*" In accordance with Title 9 CFR 500.3(b), the suspension of inspection at an establishment without prior notification for inhumane handling practices is warranted, as specified in Title 9 CFR 313 and under authority of 21 U.S.C. 621.

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.

Based on the above findings and your failure to meet statutory and regulatory requirements for the humane handling and slaughter of livestock, and in accordance with Title 9 CFR 500.3(b), FSIS is suspending the assignment of inspectors and withholding the marks of inspection for the slaughter operations at your establishment.

The suspension of the assignment of inspectors will remain in effect until such time as you can proffer to the FSIS, Alameda District Office, adequate written assurances including corrective actions and preventative measures to assure that livestock at your establishment are handled and slaughtered humanely, in accordance with the FMIA, The Humane Methods of Slaughter Act, and regulations promulgated thereunder.

In addition, failure to respond to this Notice of Suspension and failure to assure that animals at your establishment are handled and slaughtered humanely in accordance with the statutory and regulatory requirements may result in further administrative enforcement actions.

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

Sherry 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

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

Scott C. Safian, Director  
Enforcement Operations Staff  
Office of Investigation, Enforcement and Audit  
Food Safety and Inspection Service  
United States Department of Agriculture  
Stop Code 3753, SB- Room 2148  
1400 Independence Avenue, SW  
Washington, DC 20250  
Voice: (202) 418-8872  
Fax: (202) 245-5097

If you have any questions, wish to further discuss this matter or wish to submit any proposals please contact 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

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S. Johnson, EARO  
S. Baucher, IEA, RD  
USDA IIC, Est. 34741 M  
FO/QR