



United States Department of Agriculture

Food Safety and
Inspection Service

October 4, 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

Ty O'Connor, Owner
OCC Legacy Cuts, Est. M47779
21 Kim Curry Rd.
Ekalaka, MT 59324
occlegacycuts@yahoo.com

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

NOTICE OF SUSPENSION

Dear Mr. O'Connor,

This letter confirms the verbal notification provided to your establishment, OCC Legacy Cuts, M47779, located in Ekalaka, MT, on Tuesday, October 4, 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. Dr. Jessica VanHook, 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 Tuesday, October 4, 2022, the FSIS Consumer Safety Inspector (CSI) documented in a Noncompliance Record (NR) the following event at Est. M47779:

"On Tuesday 10/4/2022 at approximately 0900 hours while performing postmortem inspection, I, the CSI observed the following noncompliance. It took six stuns to render a single beef heifer unconscious. I heard the first stun attempt with the hand-held captive bolt (HHCB) device and heard the beef vocalize. I heard the second stun attempt with the HHCB device but no vocalization. I heard the beef roll out of the stun box and heard a third stun attempt with the HHCB device to which the beef vocalized. I arrived at the bleed pit on the slaughter floor after the employee had hoisted the beef by all four legs (i.e. in a hammock-like position) and observed the employee stick the beef for bleeding. As the employee stuck the beef, I observed the animal vocalize, and try to move away from the stick with its eyelids open and eyes rolling. I observed the beef rhythmically breathing while hanging and bleeding from the neck stick. I told the employee that the beef was not sufficiently stunned and that he needed to stun the beef. I observed the employee reload the HHCB device and apply fourth stun attempt which was ineffective. The beef was still breathing and attempting to vocalize. I observed the animals mouth opening and closing with lips quivering but no audible noise being produced, and the tongue continued to remain inside the mouth. I prompted the stun operator to apply another stun attempt. The fifth stun attempt with the same HHCB device was ineffective, and the beef was still breathing and attempting to vocalize with eyes rolling. I again prompted the stun operator to take another stun attempt. This sixth stun attempt with the same HHCB device rendered the beef fully unconscious whereas I observed the tongue drop limply from the mouth and the eyes stop rolling. All stuns were made with a single HHCB device, I did not observe a backup stunning device at the stun box. I verbally informed the employee that no more animals could be slaughtered, and I applied U.S. Rejected B45725021 to the stun box on the slaughter floor. I inspected the head and observed a grouping of five penetrating stun holes below the target zone and a single penetrating stun hole within the target zone. The Denver District Management Team was contacted through supervisory channels. This establishment does not operate under a Robust Systematic Approach to Humane Handling of Livestock. There have been no noncompliance records issued in the past 90 days for the same root cause."

Summary

The decision to suspend the assignment of inspectors at your establishment is based on this noncompliance with 9 CFR 313.15(a)(1) and 313.15(3). This is an inhumane noncompliance, whereby a heifer was unsuccessfully stunned, and no corrective actions were implemented until FSIS intervention.

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
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
Office: (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,

JESSICA
VANHOOK

Digitally signed by
JESSICA VANHOOK
Date: 2022.10.04
13:46:38 -06'00'

for

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