



November 9, 2020

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Mr. Larry Slenk, President/GM  
Fillmore Beef Co.  
Est. M10036  
5812 142<sup>nd</sup> Avenue  
Holland, MI 49423

## **NOTICE OF SUSPENSION HELD IN ABEYANCE**

Dear Mr. Slenk:

This letter confirms verbal notification provided to Mr. Bill Snow, Vice President of Operations, by Dr. Tamara Davis, Deputy District Manager, on November 9, 2020, of the Food Safety and Inspection Service's (FSIS) decision to place the Notice of Suspension (NOS) dated November 6, 2020, into abeyance. This action is based on the review, analysis, and acceptance of your proposed corrective actions and preventive measures submitted to the FSIS Chicago District Office on November 9, 2020.

### **Background**

On November 6, 2020, the FSIS Supervisory Public Health Veterinarian (SPHV) observed multiple stunning attempts to effectively stun a beef cow. A total of seven attempts were made to effectively stun the animal. In addition to the animal freely moving its head during the follow-up attempts, both the primary and backup captive bolt devices failed to discharge multiple times. Post-mortem examination confirmed three of the attempts penetrated the skull. Previously, on August 28, 2020, you were issued a Notice of Intended Enforcement (NOIE) for a humane handling incident that resulted in multiple attempts to effectively stun a steer when both the primary and backup captive bolt devices failed to discharge multiple times. This resulted in a significant delay between the ineffective first attempt and the second effective corrective action stun. The NOIE was placed into deferral on September 2, 2020. Because you were operating within the deferral period for the NOIE when the November 6, 2020 incident occurred, a NOS was issued. You were provided a written copy of the NOS.

Within the NOS, the FSIS Chicago District Office requested that you submit a written response with corrective actions to address the following:

1. Identify the specific reason(s) why the events described occurred.
2. Describe the specific action(s) that will be implemented to eliminate the cause of the incident and prevent future recurrences.
3. Describe the specific future monitoring activity or activities that your establishment will employ to ensure the actions implemented are effective.
4. Provide any supporting documentation and records maintained and associated with your proposed corrective actions and preventive measures.

## **Corrective Actions**

On November 9, 2020, the FSIS Chicago District Office received your written response. You identified the cause of the incident was head movement of the animal resulting in inaccurate placement of the captive bolt device and captive bolt device cartridges retaining moisture preventing the devices from discharging properly.

You proposed the following corrective actions to restore and maintain regulatory compliance:

1. A head catch has been added to the knock box to help immobilize the cattle. The head catch has a narrow opening to limit lateral movement. It also has a stationary shelf to keep the head raised. A chain attached to an electric winch will apply pressure to the back of the neck to hold the cattle's head on the stationary shelf. To ensure the animal stays in the head catch a pusher gate has been installed to push the cattle forward.
2. The employee performing the stunning will identify any faults of the new immobilization equipment and procedures. All faults will be reported and documented on a continuous improvement report. Corrective actions taken to eliminate the fault will also be documented on the report.
3. The storage and handling of the stunning cartridges has been updated to control moisture and prevent further stunner malfunctions. Cartridges will be stored in a cabinet with the lid tightly secured. A more absorbent towel will be used to properly dry the stunning operator's hands. The proper storage and handling of stunner cartridges will be recorded.
4. The humane handling procedures for Fillmore Beef Company are updated to increase the frequency of stunner maintenance to after each slaughter day to include test firing.
5. The frequency of verification observations for stunning effectivity will remain at 10% per day and will be cut in half every 30 days without incident until it reaches the original frequency once per day of slaughter.
6. The stunning checklist will be used to record operation of the stunner. A monitoring checklist with direct observation of detailed maintenance procedures will be used. Any equipment faults found during maintenance will be recorded and corrected.

After a review and analysis of your proposed corrective actions, the FSIS Chicago District Office has concluded that these activities, provided they are successfully implemented, will serve to adequately address the regulatory requirements identified within the NOS.

## **Summary and Conclusion**

This letter serves as written notification that FSIS is placing the suspension at your establishment into abeyance. The abeyance will remain in effect until such time as you have demonstrated successful and effective implementation of the proposed corrective actions. The implementation of the corrective actions will be subject to verification by FSIS inspection program personnel (IPP) to ensure no repetition of noncompliance related to your responsibilities regarding the applicable statutes and regulations.

FSIS is committed to monitoring establishments' operations to verify that they are fully complying with all regulatory requirements. To assist in those verification activities during the abeyance period, FSIS has developed a Verification Plan Report (VPR) based on your proposed corrective actions. The VPR will be completed by FSIS IPP as a means to verify and document regulatory compliance in conjunction with the conditions of this abeyance. The VPR identifies specific elements of your corrective actions and the associated regulatory requirements. Additionally, a District Veterinary Medical Specialist (DVMS) will conduct humane handling verification visits (HHVV) at approximate 30-day intervals to evaluate your progress in implementing these corrective actions. These verification activities will continue until FSIS has

concluded that your establishment has successfully implemented these corrective actions on a continued and consistent basis. FSIS verification includes the expectation that you meet any time associated commitments identified within your corrective actions. Should your establishment fail to operate in accordance with these commitments or fail to comply with the regulatory requirements, FSIS will take immediate and appropriate regulatory control actions.

You are reminded that as an operator of a federally inspected facility, you are expected to fully comply with all FSIS regulations and to take appropriate corrective actions to prevent the inhumane treatment and slaughter of livestock. The Humane Methods of Slaughter Act of 1978 (Section 1901, 1902, and 1906) states that the slaughtering and handling of livestock are to be carried out only by humane methods. 9 CFR 313 contains the FSIS regulatory requirements that were promulgated based on the HMSA and the FMIA. It is fully expected that you comply with the HMSA, FMIA, and the regulatory requirements of Part 313, and that you carry out each of the corrective and preventive actions you proposed in response to the egregious incident. Failure to comply could result in the reinstatement of suspension at your facility or other appropriate administrative or legal actions. We urge your cooperation and voluntary compliance.

If you have questions regarding this matter, you may contact, (b) (6) or you may contact this office at (630) 620-7474 or by fax at (630) 620-7599.

Sincerely,

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FICKEY

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DONALD FICKEY  
Date 2020.11.09  
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Dr. Donald B. Fickey  
District Manager  
Chicago District