



United States Department of Agriculture

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Food Safety and  
Inspection Service

February 22, 2021

Digitally signed copy hand-delivered

Office of Field  
Operations  
Des Moines District  
Office

Evan Bailey, Interim Plant Manager  
North Dakota State University Meat Laboratory  
P.O. Box 6050, Dept 7630  
Fargo, North Dakota 58105

Neal Smith Federal  
Building  
210 Walnut Street  
Room 985  
Des Moines, IA  
50309-2123

**NOTICE OF SUSPENSION**

Dear Ms. Bailey:

Voice 515.727.8960  
Fax 515.727.8991

This letter confirms verbal notification by the Des Moines District Office, Food Safety and Inspection Service (FSIS) on February 22, 2021, of the decision to suspend the assignment of slaughter Inspection Program Personnel (IPP) at your firm, Establishment M7627, North Dakota State University Meat Laboratory, located at Animal and Range Sciences Department 1350 Albrecht Blvd. Fargo, North Dakota 58102, herein referred to as the/your establishment. This action is taken in accordance with the Rules of Practice, 9 CFR 500.3(b), which indicates that FSIS may take a withholding action or impose a suspension without providing an establishment prior notification if it is handling or slaughtering animals inhumanely such as occurred at your establishment on February 22, 2021.

**Background**

The *Federal Meat Inspection Act* (FMIA) (Title 21 of the United States Code {21 U.S.C.} 603 et seq) provides that for the purpose of preventing the inhumane slaughtering of livestock, the secretary shall cause to be made, by inspectors appointed for that purpose, an examination and inspection of the methods by which amenable species cattle, sheep, swine, goats, horses, mules, or other equines are slaughtered and handled in connection with slaughter in the slaughtering establishments inspected under this Act. The Secretary may refuse to provide inspection to a new slaughtering establishment or may cause inspection to be temporarily suspended at a slaughtering establishment if the Secretary 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 the *Humane Methods of Slaughter Act* (HMSA) (72 Statute, 862; 7 U.S.C. 1901 to 1906) until the establishment furnishes assurances satisfactory to the Secretary that all slaughtering and handling in connection with slaughter of livestock shall be in accordance with such methods.

Under the authorities of the Acts, FSIS has prescribed rules and regulations for the humane slaughtering of livestock, as contained in 9 CFR, Part 313, and the HMSA of 1978. 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.

### **Findings/Basis for Action**

At approximately 0705 hours, while observing HATS Category VIII – Stunning Effectiveness, IPP observed the following noncompliance: An establishment employee attempted to stun a heifer with a hand-held captive bolt device. The first attempt was ineffective as the heifer remained conscious. The heifer vocalized immediately after the hand-held captive bolt was fired, continued blinking, and remained standing. The establishment employee immediately reloaded the hand-held captive bolt and attempted a second stunning procedure. After the second attempt, the animal remained conscious and continued vocalizing, blinking, and standing. Blood was observed coming out of the nose of the heifer as well as a wound approximately halfway between the eyes and nose. A third attempt, with the same hand-held captive bolt device, by the same employee, again left the animal conscious; it continued vocalizing, blinking, and standing. The establishment interim manager then disassembled, reassembled, and reloaded the hand-held captive bolt. The fourth attempt to stun the animal was made by the interim plant manager. Upon firing the hand-held captive bolt while the bolt was in contact with the animal's head, the stunning round inside the captive bolt misfired. The hand-held captive bolt was reloaded with a new stunning blank and on the fifth attempt, the animal was rendered insensible, showing no signs of consciousness. Immediately after determining the unconsciousness of the heifer, IPP placed a U.S. Reject tag #A3120201 on the restrainer and informed Ms. Evan Bailey, Interim Establishment Manager, of the observations regarding the establishment's inability to render the animal unconscious after multiple stunning attempts. Ms. Bailey and IPP then observed the skull of the heifer. Three holes, approximately less than or equal to a half inch below the brain were observed, showed evidence that all three holes missed the brain. A fourth hole was observed approximately one inch above the other three holes. IPP verbally informed Ms. Bailey of the forthcoming noncompliance record for failure to render the animal immediately unconscious with the first application of the captive bolt stunner and failure to meet the regulatory requirements of 9 CFR 313.15(a)(1).

## **Conclusion**

The observations detailed above indicate an egregious violation of the humane handling requirements specified within the provisions of 21 U.S.C. 603, Section 3(b) of the FMIA, and 7 U.S.C. 1901 and 1902 of the HMSA of 1978 and the regulatory requirements outlined in 9 CFR 313.15(a)(1).

The establishment has a humane handling program that meets the four criteria as described in the Federal Register Notice of September 9, 2004, however, the establishment was not operating under a robust systematic approach to humane handling at the time of the incident. Based on the above findings, the Des Moines District Office has determined to suspend the assignment of inspectors for your slaughter operations, as per the Rules of Practice 9 CFR 500.3(b).

The Des Moines District Office has determined to suspend the assignment of inspectors for your slaughter operations, as per the Rules of Practice 9 CFR 500.3(b).

The suspension of the assignment of inspectors will remain in effect until such time as you provide to this office adequate written corrective actions and preventive measures to assure that the handling and/or slaughter of animals will be done humanely and in accordance with the FMIA, HMSA, and the regulations promulgated therein.

You may provide this office written corrective and preventive measures concerning the NOS and we will determine further action, if any, based upon your response. Your written response should include:

1. An initial assessment of the incident, including a determination of the cause.
2. Immediate corrective actions taken.
3. Preventive measures to prevent reoccurrence.
4. Any training of employees and materials used.
5. Type of monitoring activity for stunning, along with a documentation record.

You are reminded that as an operator of a federally inspected establishment, you are expected to comply with FSIS regulations, regarding the humane handling and slaughter of livestock. Please be advised that you have the right to appeal this matter. If you wish to appeal, you should contact:

Sherri N. Johnson  
Acting Executive Associate for Regulatory Operations  
Office of Field Operations  
Food Safety and Inspection Service  
United States Department of Agriculture  
1400 Independence Avenue, SW  
South Building, Room 1330A  
Washington, DC 20250  
[sherri.johnson@usda.gov](mailto:sherri.johnson@usda.gov)  
Phone number: 202-379-6196

In addition, you may also request a hearing regarding this determination pursuant to FSIS Rules of Practice, 9 CFR Part 500. The Rules of Practice were published in the Federal Register, Vol. 64, No. 228, on November 29, 1999. As specified in Section 500.5(d), should you request a hearing, FSIS will file a complaint that will include a request for an expedited hearing.

If you wish to request a hearing regarding this determination, you should contact:

Scott C. Safian, Branch Chief  
Enforcement Operations Branch  
Office of Investigation, Enforcement and Audit  
Food Safety and Inspection Service  
United States Department of Agriculture  
Stop Code 3753, PP3, Cubicle 8-235-A  
1400 Independence Avenue, SW  
Washington, DC 20250  
Phone number: 202-418-8872  
Fax number: 202-245-5097

We urge your cooperation and voluntary compliance. If you have questions regarding this matter, please feel free to contact the Des Moines District Office at 515-727-8960, (b) (6)

(b) (6)

Sincerely,

**THOMAS BECK** Digitally signed by THOMAS BECK  
Date: 2021.02.22 15:33:55 -0600

for:

Dawn Sprouls, DVM  
District Manager  
USDA FSIS OFO  
Des Moines District