United State Department of Agriculture
Food Safety and Inspection Service
Office of Field Operations
Chicago District Office
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Lombard, IL 60148
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March 29, 2022

ELECTRONIC COPY PROVIDED AND DELIVERED BY COURIER

Mr. Bob Boliantz, Owner
E. R. Boliantz Co. Inc.
Est. M34114
1535 Cleveland Ave.
Ashland, OH 44805

NOTICE OF SUSPENSION HELD IN ABEYANCE

Dear Mr. Boliantz:

This letter confirms verbal notification provided to (b) (6), by Dr. Donald Fickey, District Manager, on March 29, 2022, of the Food Safety and Inspection Service's (FSIS) decision to place the Notice of Suspension (NOS) issued to your establishment on March 28, 2022, 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 March 28 and 29, 2022.

Background

On March 28, 2022, you were notified of the FSIS decision to withhold the marks of inspection and suspend the assignment of inspection program personnel (IPP) from your slaughter process at E. R. Boliantz Co. Inc., establishment M34114, located at 1535 Cleveland Avenue, in Ashland, Ohio. This action was based on your establishment's failure to effectively implement humane methods of slaughtering and handling animals in a manner that complies with the requirements prescribed by the Federal Meat Inspection Act (FMIA) and the Humane Methods of Slaughter Act of 1978 (HMSA). Your establishment was in violation of Title 9 of the Code of Federal Regulations (9 CFR), Sections 313.15(a)(1) and 313.15(b)(1)(iii). The Rules of Practice, 9 CFR 500.3(b), specify that FSIS may issue a suspension without providing prior notification if an establishment is observed to be handling or slaughtering animals inhumanely. 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 and preventive measures 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 March 28, 2022, you submitted a written response with the proposed corrective actions intended to restore and maintain regulatory compliance as required. Upon receipt of these corrective actions, the FSIS Chicago District Office performed a review and analysis. After the review, (b) (6) initiated a teleconference with the

Chicago District Veterinary Medical Specialists (DVMSs) to discuss the corrective actions as proposed. The DVMSs provided information and requested additional details and clarifications necessary so that your response would sufficiently address the regulatory issues identified within the NOS. The initial response was revised and amended on March 28 and 29, 2022, to include the information and details discussed.

Specifically, you proposed the following:

1. You identified the cause as an employee electing to not use the head restraint because the bull displayed aggressive behavior when entering the stunning box and the employees were not able to fully secure the head restraint due to the bull's demeanor. You noted that the bull reacted more aggressively when pressure was applied from the restraint. In an effort to reduce the animal's stress, the employees did not apply full pressure from the head restraint, leaving it disengaged. Although the first attempt with the captive bolt struck the animal, you identified that the cartridges for the captive bolt device were defective and did not produce enough force to effectively stun the bull. The second shot was effective but delayed because the bull was able to move its head to prevent the second shot from being administered immediately.

2. Describe the specific action(s) that will be implemented to eliminate the cause of the incident and prevent future recurrences.

    - Management disposed of the remining cartridges that were identified as faulty.
    - The head restraint will be used 100% for cattle in the knock box. In the event that the animal is too large, the head restraint is designed to be manipulated by removing one side to effectively squeeze the animal using the side of the existing stunning box and one of the head restraints. In the event that the animal is too agitated to properly engage the head restraint, management will be notified and evaluate. If the animal cannot be handled safely without risk of injury or harm to the animal or employees, the animal will be moved from the stunning box and held in the barn until it is calm and can be safely handled.
    - Management will retrain employees on the proper use of the head restraint within the stunning box and require all employees responsible for this task to attend a training session scheduled for 6:00 AM on March 29, 2022, with attendance documented on the sign-in sheet. The training will include a hands-on review of the process and equipment.

3. Describe the specific future monitoring activity or activities that your establishment will employ to ensure the actions implemented are effective.

    - Management will monitor the operation of the captive bolt stunner and cartridges once every morning before cattle harvest for a period of 90 days. This will be done with a test shot on a beef head saved from the previous day's kill. The test shot and results will be recorded on the monitoring form titled "Captive bolt stunner and cartridge test."
    - Management will monitor the proper loading and securing of the livestock in the head restraint and stunning effectivity three times daily every day cattle are slaughtered, and the results will be documented on the form titled "Monitoring of cattle secured in head restraint and effective stun."
    - In the event a deviation or noncompliance occurs associated with the corrective actions, immediate corrective actions will be implemented to restore compliance. Management will evaluate the process to determine if any additional measures are required to prevent recurrence. If necessary, the corrective actions provided for the NOS will be revised to reflect these changes.

4. Provide any supporting documentation and records maintained and associated with your proposed corrective actions and preventive measures.

    The above referenced documentation was provided for review.

The FSIS Chicago District Office has concluded that these activities as described, provided they are successfully implemented, will serve to adequately address the regulatory issues identified within the NOS.

Summary and Conclusion

This letter serves as written notification that FSIS is placing the suspension of the assignment of IPP at your establishment into abeyance. The abeyance will remain in effect until your proposed corrective actions have been verified to be successfully implemented on a consistent and continuous basis. The corrective actions you proposed will be subject to verification by FSIS IPP. These verification activities will serve to assess the implementation of the corrective actions and the requirement to maintain compliance with the FMIA, HMSA, and all applicable FSIS regulations.

FSIS is committed to monitoring establishments' operations to verify compliance with the regulatory requirements. To assist in those verification activities as a contingency of abeyance, FSIS has developed a Verification Plan Report (VPR) based on your corrective actions. The VPR will be completed by FSIS IPP as a means to document the implementation of the corrective actions throughout the abeyance period. The VPR identifies specific elements of your corrective actions and the associated regulatory requirements. These will be subject to verification until FSIS has made the determination that your establishment has effectively implemented these corrective actions. Additionally, during the abeyance period, humane handling verification visits (HHVV) will be conducted at 30-day intervals to assess your progress in implementing the corrective actions. FSIS verification includes the expectation that you meet any time associated commitments identified within your proposal. 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 HMSA, Sections 1901, 1902, and 1906, state 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) . (b) (6) , or this office at (630) 620-7474 or by fax at (630) 620-7599.

Sincerely,

DONALD FICKEY Digitally signed by DONALD FICKEY Date: 2022.03.29 08:00:50 -05'00'

Dr. Donald B. Fickey
District Manager
Chicago District Office