



Food Safety and  
Inspection Service

December 18, 2023

Office of Field  
Operations  
Des Moines  
District Office

Electronically mailed on December 18, 2023

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

Russ Heinrichs, Establishment Manager  
Farmers Union Industries, LLC, Est. M21898  
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## NOTICE OF SUSPENSION

Attention: Russ Heinrichs

This letter serves as official notification by the Food Safety and Inspection Service (FSIS) of our decision to withhold the federal marks of inspection and suspend the assignment of Inspection Program Personnel (IPP) for all slaughter operations at Farmers Union Industries, LLC., Establishment M21898, located at 2421 9th Avenue South, Estherville, Iowa 51334. This letter follows notification via phone of the suspension action, provided by (b) (6), Frontline Supervisor, to Mr. Russ Heinrichs, Establishment Manager, and (b) (6), Quality Assurance Manager, at approximately 1553 hours on December 18, 2023.

This action is taken in accordance with the Rules of Practice regulation 9 Part Code of Federal Regulations (CFR) Part 500.3(b) due to an egregious inhumane handling incident that occurred at your establishment on December 18, 2023. The evidence demonstrates failure to comply with the Federal Meat Inspection Act (FMIA) (21 U.S.C. 603), the Humane Methods of Slaughter Act (HMSA) (7 U.S.C. 1901 *et seq.*), and the regulatory requirements (9 CFR Part 313).

### **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; Title 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.

The HMSA provides that Congress finds that the use of humane methods in the slaughter of livestock prevents needless suffering; results in safer and better working conditions for persons engaged in the slaughtering industry; brings about improvement of products and economies in slaughtering operations; and produces other benefits for producers, processors, and consumers which tend to expedite an orderly flow of livestock and livestock products in interstate and foreign commerce. 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.

Under the authority of the Acts, FSIS has prescribed rules and regulations required for establishments slaughtering and handling livestock, as required by 9 CFR Part 313. FSIS has also developed the Rules of Practice regarding administrative enforcement, 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, and for filing a complaint to withdraw a grant of inspection. Specifically, 9 CFR 500.3(b) states that FSIS may impose a suspension without providing prior notification due to handling or slaughtering of animals inhumanely.

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

At approximately 1402 hours, while performing a directed HATS Category VIII task, Stunning Effectiveness, as part of a Verification Plan for a Notice of Intended Enforcement (NOIE), IPP observed the following noncompliance. In the stunning room, IPP observed an establishment employee attempt to stun an ambulatory disabled market hog with a handheld captive bolt (HHCB) device in the area prior to the raceway. The hog was standing and was not restrained. The HHCB device audibly discharged and contacted the skull, causing a bleeding wound. The hog remained conscious in a standing position, vocalized, and walked away from the operator. The employee left the area for a period of time and returned with the mobile electrical stunner, which is stored in the barn. The employee tested the mobile electrical stunner and determined the voltage was sufficient. During this time, the hog continued to walk around the enclosed area. The employee applied a second stun with the mobile electrical stunner, with two stunning probes on one wand applied first behind the ears, then on the heart. This effectively rendered the animal unconscious. The employee applied a security stun with a HHCB device. On the skull of the hog, I observed a partially penetrating wound on midline approximately one inch above the medial canthus of the eyes and a second penetrating wound slightly above the first. I took a regulatory control action and applied U.S. Rejected tag No. B-46568479 to the raceway and informed employees not to resume stunning. IPP notified (b) (6) of the noncompliance. This is noncompliant with 9 CFR 313.15(a)(1) and 313.15(b)(1)(iii).

## **Conclusion**

Provisions of the FMIA outline FSIS' ability to refuse to render inspection and indefinitely withdraw inspection from an establishment, provided the establishment is afforded the right to an administrative hearing, when conditions exist where the slaughter and/or handling of livestock was not by a method in accordance with the Act(s). Evidence demonstrates your failure to meet regulatory requirements detailed in 9 CFR 313.15(a)(1) and 313.15(b)(1)(iii) constituting a violation of the humane slaughter requirements and supporting the conclusion that your handling of livestock violated the provisions of the FMIA and HMSA.

The establishment does have a humane handling program that meets the four criteria as described in the Federal Register Notice of September 9, 2004, but is currently under Deferral of a Notice of Intended Enforcement Action (NOIE) that was issued on September 12, 2023. Based on the above findings, the Des Moines District Office has made the decision to suspend the assignment of inspectors for your slaughter operations, as per the Rules of Practice regulation 9 CFR Part 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 address the noncompliance detailed in this NOS, 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 actions and preventive measures concerning the NOS and we will determine further action, if any, based upon your response. If you choose to address this issue, your written response should include:

1. An initial assessment of the incident, including determination of the cause.
2. Immediate corrective actions taken.
3. Measures to prevent reoccurrence.
4. Any training of employees, materials used, and associated records.
5. Type of monitoring activity(s) to be conducted and associated monitoring records.

A determination of further administrative action will be made upon receipt and review of your submitted corrective actions and preventative measures. You are reminded that, as an operator of a federally inspected establishment, you are expected to comply with FSIS regulations and to take appropriate corrective actions to prevent the production of or adulterated products at your establishment. Please be advised that your failure to respond adequately to these issues may result in our initiating action to withdraw inspection from your establishment.



**Appeal and Hearing Rights**

You have the right to appeal this matter and can do so by contacting:

Sherri 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  
South Building, Room 1330A  
Washington, DC 20250  
[sherri.johnson@usda.gov](mailto:sherri.johnson@usda.gov)  
Phone number: 202-379-6196

Pursuant to 9 CFR 500.5(d), you may also request a hearing regarding this determination. 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, please contact:

Scott C. Safian, Director  
Enforcement Operations Staff (EOS)  
Office of Investigation, Enforcement and Audit (OIEA)  
Food Safety and Inspection Service  
United States Department of Agriculture  
Stop Code 3753, SB - Room 2148  
1400 Independence Avenue, SW  
Washington, DC 20250  
Telephone: (202) 418-8872  
Facsimile: (202) 245-5097  
E-mail: [AEBCorrespondence@usda.gov](mailto:AEBCorrespondence@usda.gov)

If you have questions regarding this matter, please feel free to contact the Des Moines District Office at 515-727-8960 or District Veterinary Medical Specialist (b) (6).

Sincerely,

**JEFFERY  
JACOBSEN**

Digitally signed by JEFFERY  
JACOBSEN  
Date: 2023.12.18 16:25:57  
-06'00'

for

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

cc:

[sherri.johnson@usda.gov](mailto:sherri.johnson@usda.gov)  
[Dawn.Sprouls@usda.gov](mailto:Dawn.Sprouls@usda.gov)  
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Russ Heinrichs, Establishment Manager  
Farmers Union Industries, LLC. Est. M21898

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December 18, 2023

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