



Food Safety and
Inspection Service

December 13, 2023

Office of Field
Operations
Des Moines
District Office

Electronically mailed on December 13, 2023

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Des Moines, IA
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NOTICE OF INTENDED ENFORCEMENT

Attention: Mr. Meyer

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), with prior oral notification, at Establishment M253, Long Prairie Packing, LLC, located at 10 Riverside Drive, Long Prairie, Minnesota 56347. This letter follows verbal notification of the Notice of Intended Enforcement (NOIE), by (b) (6), Front Line Supervisor, to (b) (6), Food Safety and Quality Assurance Manager, at approximately 9:00pm on December 12, 2023. This action includes the Slaughter Hazard Analysis Critical Control Point (HACCP) processes employed at your establishment.

The decision to institute this enforcement action is in accordance with Title 9 of the Code of Federal Regulations (CFR), Rules of Practice 500.3(b), based on the determination that your establishment did not handle or slaughter animals humanely. The observed, egregious, inhumane handling incident 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 regulatory requirements (9 CFR Part 313).

Background

The FMIA (21 USC 601 *et seq.*) provides it is essential to the public interest that the health and welfare of consumers be protected, by assuring meat products distributed to them are wholesome, not adulterated, and properly marked, and labeled. The Act gives FSIS the authority, as designated by the Secretary of Agriculture, to prescribe rules and regulations describing sanitation requirements for inspected establishments and provide FSIS program personnel the authority to refuse to allow meat/meat food products to be marked, labeled, stamped, or tagged as *inspected and passed*, to prevent the entry of adulterated products into commerce. Furthermore, the FMIA provides

FSIS the authority to appoint inspectors to examine and inspect the method by which livestock are slaughtered and handled at slaughtering establishments.

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 1440 hours on December 12, 2023, while performing a Routine Livestock Humane Handling task observing HATS Category IV Antemortem Inspection by the scale, IPP was called to the restrainer by establishment personnel and observed the following noncompliance with HATS Task Category VIII Stunning effectiveness. A cow was down in the chute alley and only the head was inside the restrainer chamber. The cow appeared to be in good body condition and was able to rise on her front legs (e.g. dog sit) but was unable to rise on her hind legs. Superintendent (b) (6) was present and asked IPP if he could apply the electric prod to the animal and IPP said yes. (b) (6) applied the prod to the left hip region with no result. (b) (6) positioned himself to stun the cow in the restrainer chamber with a handheld captive bolt stunner. (b) (6) attempted to hold the cow's head with one arm and applied the handheld captive bolt stunner with the other. As the stunner was triggered, the cow pulled its head back. After the first stun attempt, controlled eye movements, rhythmic breathing, and controlled head movements were observed by IPP. The cow did not vocalize after the ineffective stun attempt. Blood was observed running from the wound. IPP told (b) (6) that this animal needed to be rendered unconscious as soon as possible but an immediate second attempt was not made with the handheld captive bolt stunner. Establishment personnel gathered around the restrainer chamber to discuss next steps. (b) (6) directed Supervisor (b) (6) to shoot the animal with a firearm, but (b) (6) responded that the firearm was located in the office, where it is routinely stored during slaughter. The two continued to discuss why the firearm was not readily available and (b) (6) stated, "he wasn't asked to bring the firearm". At some point the animal simply stood up and was moved forward into the restrainer chamber and restrained. After second stun attempt was applied with the pneumatic stunner by an establishment employee, the animal had a flaccid tongue and no controlled voluntary movements. This stun effectively rendered the animal

unconscious. A routine security knock was applied per the establishment's stunning procedure.

The head of the animal was retained and hide was removed. IPP observed the entry wound from the first ineffective attempt, 2 inches medial and proximal to the right eye, entering the right sinus. The second stun entrance wound was located approximately 1 inch (2.5 cm) above the intersection of the "X" made by drawing a line between the top of the ears/base of the horn and the inside of the eye on the opposite side. The security knock had the same entrance wound.

This is noncompliant with 9 CFR 313.15(a)(1) in that the establishment failed to render this animal unconscious with the handheld captive bolt stunner on the first attempt and did not perform immediate effective corrective action stun attempt. Immediate regulatory control was taken by tagging the stunning station with US Rejected tag #B37861741. Superintendent (b) (6) was immediately notified of the incident, that the stun area was tagged, and that USDA IPP would be contacting the District Office for further guidance.

Conclusion

After consideration of the facts surrounding this incident, the Des Moines District Office has determined that a NOIE be issued for your slaughter operations, in lieu of a Notice of Suspension (NOS), as per the Rules of Practice 9 CFR Part 500.3(b) and 9 CFR Part 313.15(a)(1). When an establishment maintains a robust humane handling program, FSIS can exercise regulatory discretion when an inhumane handling or slaughter incident is observed. Although your establishment has previously developed and implemented a systematic approach to humane handling that was considered robust, you have failed to effectively implement your program accordingly.

On September 9, 2004, FSIS published "*Humane Handling and Slaughter Requirements and the Merits of a Systematic Approach to Meet Such Requirements*" in the Federal Register (69 FR 54625). On September 24, 2020, FSIS released FSIS Directive 6900.2 Revision 3, entitled, "*Humane Handling and Slaughter of Livestock*." Additionally, on October 23, 2013, FSIS introduced new guidance, titled "*FSIS Compliance Guide for a Systematic Approach to the Humane Handling of Livestock*." Within the guidance material is information intended to better ensure the humane treatment of livestock presented for slaughter. The guidance material provides a set of practices designed to minimize excitement, discomfort, and accidental injury regarding the humane handling of livestock to include the four components of a robust systematic approach to humane handling.

In accordance with FSIS' Rules of Practice, regulation 9 CFR Part 500.3(b), we are affording you the opportunity to demonstrate why a determination should not be made that your slaughter process is inadequate or to demonstrate that you have achieved regulatory compliance. Please provide this office with a written response to this NOIE within three (3) working days from the date of your receipt of this letter. We will determine if any further actions are necessary based on your response.

Please provide a written response, inclusive of written corrective action and preventative measures, by addressing the following:

- Evaluate and identify the nature, cause of the incident.
- Describe the specific actions taken to eliminate the cause of the incident and prevent future recurrences.
- Describe specific monitoring activities planned to ensure future compliance.
- Provide any supporting documentation and records maintained and/or associated with the proposed corrective actions and preventative measures.

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 immediate suspension action.

Your proposed corrective actions and preventive measures should include any times and/or dates for completion of these proposed activities.

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
Phone number: 202-379-6196

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, or (b) (6), District Veterinary Medical Specialist (DVMS), at (b) (6).

Sincerely,

**MARK
JOHNSON**
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Digitally signed
by MARK
JOHNSON
Date: 2023.12.13
08:21:54 -06'00' (for)

Dawn Sprouls, DVM
District Manager
USDA FSIS OFO

Lyle Meyer, Vice President of Operations
Long Prairie Packing, LLC, Est. M253

Notice of Intended Enforcement
December 12, 2023

Des Moines District

cc:

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