



United States Department of Agriculture

Food Safety and
Inspection Service

Office of Field
Operations

Atlanta District Office

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Certified Mail

April 23, 2024

Mr. Cesar Borges, President/GM
Ganaderos Borges, Inc., Est. M32170
Barrio Hucares
Carretera 192 Km 0.1
Naguabo, PR 00718

NOTICE OF DEFERRAL

Dear Mr. Borges:

On March 27, 2024, the Food Safety and Inspection Service (FSIS) issued a Notice of Intended Enforcement (NOIE) with the intent to withhold the marks of inspection and suspend the assignment of slaughter Inspection Program Personnel (IPP) at Ganaderos Borges, Inc., Est. M32170, located at Barrio Hucares Carretera 192 Km 0.1 Naguabo, PR 00718, for failure to effectively implement humane methods of slaughtering and handling of livestock in a manner that complies with the regulatory requirements prescribed by the Federal Meat Inspection Act (FMIA) and Humane Methods of Slaughter Act (HMSA).

On March 31, 2024, you submitted written corrective actions and preventive measures to meet the requirements of the Humane Methods of Slaughter Act. You described the incident as: a very stressed, excited bull entered the knocking box so fast that it placed its front legs over the top of the knocking box and was a threat to everyone in the slaughter area; the employee handling the bull feared for his safety and the safety of the people around him; and the employee reacted by using the electric prod in the bulls face until he was able to push the bull back inside the knocking box. Your corrective actions and preventive measures included: extending the height of three (3) of the sides of knocking box; management will perform the "Assessment Tool for Humane Handling and Slaughter" from the FIS Compliance Guide for a Systematic Approach to the Humane Handling of Livestock as a system verification activity by April 5, 2024; the establishment will continue to follow the current "Humane Handling and Slaughter controls and monitoring activities; you retrained your employees on the use of an electric prod following the program from North Dakota State University (NDSU); a copy of the program from

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NDSU was provided; a record dated 4/2/24, written in Spanish, with employees signatures was provided; and copies of monitoring records, written in Spanish were provided.

On April 3, 2024, FSIS determined that the proffered corrective actions and preventive measures submitted were not adequate to properly address the inhumane handling incident and clarification was requested. Specifically, FSIS requested you to: clarify what you determined to be the root cause of the humane handling incident; clarify the changes that were made in the height of the sides of the knocking box; provide monitoring procedures and frequencies that will be used to verify that the higher sides of the knocking box are effective in containing excited cattle; provide a copy of the record that will be used to document monitoring of the knocking box; provide a copy of the “Assessment Tool for Humane Handling and Slaughter” that will be used to access the facility; a copy of the record that will be used to document performance of the assessment; provide a copy of your “Humane Handling and Slaughter Controls” program; and provide an English version of the record used to document that employees were retrained in proper prod usage.

On April 5, 2024, you submitted a second response to meet the requirements of the Humane Methods of Slaughter Act. You described the root cause of the incident as an isolated event due to the nature of the animal when it entered the knocking box. You also provided copies of: a schematic drawing of the knocking box which showed that changes that were made to increase the height of the sides of the box by approximately 48 inches; a record titled “Correct Stunning Monitoring Report” which will be used to document monitoring of the knocking box to verify the taller sides will effectively contain cattle and listed a monitoring frequency of every 2 hours +/- 15 minutes; a record titled “Humane Handling of the Holding Pens” used to monitor adequate space in the pen for each animal, pen cleanliness, and water availability; your “Humane Handling and Slaughter Protocol” which describes stunning, unloading, and pen maintenance and lists a verification frequency of daily or weekly; and a record dated 4/2/24, written in Spanish, with employees signatures.

On April 9, 2024, FSIS determined that the proffered corrective actions and preventive measures submitted were not adequate to properly address the inhumane handling incident and clarification was requested. Specifically, FSIS requested you to: clarify what you determined to be the root cause of the humane handling incident; provide an adequate frequency for monitoring that the increased height of the knocking box effectively contains cattle (every 2 hours is not adequate); provide a copy of the “Assessment Tool for Humane Handling and Slaughter” that will be used to access the facility; provide a copy of the record that will be used to document performance of the assessment; and provide an adequate frequency for monitoring electric prod usage (every 2 hours is not adequate).

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On April 11, 2024, you submitted a third response to meet the requirements of the Humane Methods of Slaughter Act. You determined that the root cause of the incident was due to an employee making an erroneous and unacceptable decision regarding the use of the electric prod on the animal due to a lack of training and awareness on the proper use of the electric prod. You also determined the electric prods are too accessible to the plant employees and that the establishment does not monitor the frequency of prod use, when they are used and why they are used. Your corrective actions and preventive measures included: retraining employees in proper prod usage; a copy of the training material was provided; a copy of the record documenting employees training was provided; you determined that employees will no longer be allowed carry the electric prods and have easy access to them; effective April 15, 2024, prods will be in three designated areas (labeled wall stations) at the holding pen, the entrance to the scale and the entrance to the knocking box; plant employees will complete a journal titled "Assessment Journal Usage of Electric Prod" which will record the date, time location, animal ID, why the prod was used, who used the prod and who did the verification; the record will be verified daily; a weekly evaluation of the daily usage will be conducted and the results will be compared with the previous week usage, with a goal to decrease in the frequency of prod usage.

On April 12, 2024, you were verbally notified by (b) (6), FLS that the corrective actions and preventive measures met the requirements to place Ganaderos Borges, Inc., Est. M32170, in Deferral and that a Notice of Deferral (NOD) and Verification Plan (VP) would be issued. You are hereby being provided written notification that the NOIE is Deferred.

FSIS has designed a Verification Plan (VP), and Inspection Program Personnel (IPP) will use it to monitor and verify that you have effectively implemented your proposed actions. The VP identifies your corrective actions based on your responses, the relevant regulatory requirements, the tasks IPP will use to conduct verification activities, and the time frames that you identified. While these verification activities are targeted at your plant's use of electric prods, FSIS personnel will continue to ensure all humane handling/stunning regulatory requirements of 9 CFR Part 313 are being met. We have attached a copy of the VP to assist you as a reference during the Agency's verification activities.

As an operator of a federally inspected facility, we expect you to comply with FSIS regulations and to take appropriate corrective actions when either the establishment or FSIS identifies regulatory noncompliance. FSIS has the responsibility to initiate regulatory control or other appropriate action if your establishment fails to operate in accordance with the regulations. A final decision relative to this enforcement action will be determined based on your establishment's ability to execute and comply with your proffered corrective actions and all applicable regulatory requirements. Your establishment's failure to meet the conditions of this deferral may result in additional

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regulatory and/or administrative actions in accordance with the Rules of Practice 9 CFR Part 500.

If you have any questions in this matter, contact me at (404) 562-5900.

Sincerely,

PHYLLIS Digitally signed
by PHYLLIS
ADAMS
ADAMS Date: 2024.04.23
13:46:41 -0400

Dr. Phyllis Adams
District Manager
Atlanta District Office
USDA/FSIS/OFO

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Mr. Cesar Borges, President/GM

Ganaderos Borges, Inc., Est. M32170

April 23, 2024

cc: Karen Hunter, EARO

Phyllis Adams, DM

(b) (6), Humane Handling Enforcement Coordinator

Larry Hortert, OIEA Regional Director

Edward Hepburn, DDM

Barney Welch, DDM

Tracy Bryant, DDM

(b) (6), SEIAO

(b) (6), DCS

(b) (6), DVMS

(b) (6), FLS

(b) (6), SPHV

FO/Quarterly Reports