



Food Safety and
Inspection Service

October 31, 2023

Office of Field
Operations
Denver District Office

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Levi Brown, Owner
Lazy Acre Meat Corp.,
Establishment 47804 M
3450 County Road 48
Otis, CO 80743
lazyacremeats@gmail.com

Attention: Mr. Brown, Owner

NOTICE OF SUSPENSION

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) at Lazy Acre Meat Corp., M47804, located at 3450 County Road 48, Otis, Colorado. This letter follows verbal notification of the suspension action, provided by Dr. Jessica VanHook, Deputy District Manager, to you, the Establishment Owner, at approximately 0930 MST on October 31, 2023.

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 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/Authority

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

On Tuesday, October 31, 2023, FSIS Inspection Program Personnel (IPP) documented in a Noncompliance Report (NR) the following event at Est. M47804:

“HATS Category VIII: Stunning Effectiveness

Approximately at 730am on October 31, 2023, the CSI was performing humane handling task. The stun operator headed to the establishment office to retrieve the 12-gauge 8 round shotgun and backup firearm with 4 bullets apiece. The CSI stood outside the slaughter floor in a safe location and waited for the stun to take place. Once the CSI heard the firearm discharge, the CSI opened the door to the slaughter floor and preceded inside. The Steer (bovine) was haltered rather than restrained via the head gate. The Steer was still standing and breathing. The CSI then moved her fingers in front of the eyes and the bovine responded by blinking and moving its head away from her. The bovine didn't vocalize but the CSI observed the penetrating stun hole to be low and between the eyes and actively bleeding. The CSI verbally instructed the stun operator to apply a second stun, but the stun operator replied with “No, it's ok” and shook his head in a no manner. The CSI instructed the stun operator a second time to stun the animal again and the stun operator looked at the animal and shrugged his shoulders and took no action. The CSI stated that the animal was still alive and needed to be stunned again and the second establishment employee retrieved the backup firearm and applied a second stun before the CSI detected and was able to vacate the slaughter floor. The second stun with the backup firearm by the second establishment employee was properly located and rendered the animal insensible. The CSI applied U.S. Reject tag #B31 332278 to the stun box and verbally notified the establishment of the noncompliance.

Upon inspection of the dressed head, two penetrating stun holes were observed in the skull. One stun hole was observed to be too low and between the eyes, whereas a second stun hole was observed within the target zone.

The Denver District Management was contacted through supervisory channels. This noncompliance record (NR) is being associated with NR#WVY1112104018N-1 issued on 10/18/2023 for similar root cause. This establishment has not implemented a Robust Systematic Approach to the Humane Handling of Livestock.”

Summary and 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). Lazy Acres does not utilize a robust systematic approach to slaughter

livestock. FSIS IPP observed a disregard to humanely produce immediate unconsciousness. Evidence cited above demonstrates your failure to meet regulatory requirements addressed in 9 CFR 313.16(a)(1), 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.

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

- Evaluate and identify the nature and 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 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:

William Griffin
Executive Associate for Regulatory Operations
Office of Field Operations
Food Safety and Inspection Service
United States Department of Agriculture
SB, Room 3164
1400 Independence Avenue, SW
Washington, DC 20250
Email: William.Griffin1@usda.gov
Phone: (202) 961-7156

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

If you have any questions, you can contact the Denver District Office at (303) 236-9800, via electronic mail at Denver.Districtmanagement@usda.gov, or by fax at (303) 236-9794.

Sincerely,

ROBERT REEDER

Digitally signed by ROBERT
REEDER
Date: 2023.10.31 12:49:41 -06'00'

Dr. Robert Reeder
District Manager
USDA FSIS OFO
Denver District Office
Robert.Reeder@usda.gov

cc: W. Griffin, EARO
R. Reeder, DM
(b) (6), Humane Handling Enforcement Coordinator
S. Smith, OIEA Regional Director
J. VanHook, DDM
D. James, DDM
J. Monteverde, DDM
(b) (6) SEIAO
(b) (6) DVMS
(b) (6) SPHV
(b) (6) SCS
(b) (6) CSI
FO/Quarterly Reports