



Food Safety and
Inspection Service

May 31, 2023

Office of Field
Operations
Des Moines
District Office

Electronically Submitted on May 31, 2023

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

Brandi Krause, Establishment Manager
TTJ Packing Inc. Est. M49532
2532 Peiper Rd.
Cottage Grove, Wisconsin 53527
office@ttjpacking.co
608-839-8865

Voice
515.727.8960
Fax 515.727.8991

NOTICE OF INTENDED ENFORCEMENT

Attention: Brandi Krause

This letter confirms verbal notification by the Des Moines District Office, Food Safety and Inspection Service (FSIS) on May 30, 2023, of our intent to withhold the marks of inspection and suspend the assignment of inspection program personnel (IPP) at Establishment M45392 TTJ Packing Inc., located at 2532 Peiper Rd., Cottage Grove, WI. herein referred to as the/your establishment. This action is taken in accordance with the Rules of Practice, 9 Code of Federal Regulations (CFR) Part 500.3(b), which states that FSIS may take a withholding action or impose a suspension without providing an establishment prior notification if it is handling or slaughtering animals inhumanely. The Notice of Intended Enforcement (NOIE) is being issued to your establishment due to the observation of an egregious humane handling incident that occurred at your establishment on May 30, 2023, failing to meet the regulatory requirements of 9 CFR 313.16(a)(1).

You are required to respond to this notice adequately, in writing, addressing the regulatory noncompliance in this notice. Failure to respond adequately within three (3) business days from the date of receipt of this notice may result in the suspension of the assignment of inspectors at your establishment. FSIS will evaluate your response and will determine if any further administrative enforcement action will be necessary.

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 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 slaughtering 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 establishments by any method not in

accordance with sections 1901 to 1906 of Title 7 until the establishment furnishes assurances, satisfactory to the Secretary, that all Slaughtering and handling in connection with livestock shall be in accordance with such a method.

The Humane Methods of Slaughter Act of 1978 (7 U.S.C. 1901 et seq.) 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.

FSIS has also developed Rules of Practice regarding enforcement prescribed in 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, as well as the procedures for filing a complaint to withdraw a Grant of Federal Inspection.

Findings / Basis for Action

At approximately 14:30 hours, while observing HATS Category VIII- Stunning Effectiveness, IPP observed the following noncompliance: IPP observed that the 7th animal to be stunned, a steer with backtag: 35AM0 735, was in the stunning restrainer but was not head restrained. The animal had very abnormal skull anatomy, so the establishment decided to use the .22 caliber rifle instead of the hand-held captive bolt (primary stunning apparatus). For rifle discharge safety, IPP was behind the partition adjacent to the stunning area. IPP heard the first gunshot then the vocalization of the animal, and the noise of the animal kicking on the sided of the restrainer. The establishment employee applied a second stun with the rifle, and IPP heard more vocalization and kicking. At that time, IPP moved away from the partition and saw the animal was down and trying to rise. The animal was distressed and was vocalizing. IPP went back behind the partition and when the establishment employee applied a third stun with the rifle, the animal's vocalization and coordinated movements ceased. A fourth stun from the same rifle was applied at the back of the poll. After the animal was confirmed insensible, IPP took regulatory control action to halt stunning operations. IPP placed a reject tag on the closed door from the barn to the restrainer. IPP then notified interim Plant Manager, Ms. Brandi Krause of the noncompliance with 9CFR 313.16 (a)(1), and that IPP would need to inform the district office through supervisory channels.

Upon inspection of the dissected skull of the steer, IPP found that the forehead had an approximately 1.5" in diameter open wound that communicated with the frontal sinus that was not inflicted by a .22 caliber rifle. There was excessive bone-growth and inflamed tissue surrounding this wound and extending throughout the sinuses and skull bones. Multiple areas of bullet-caused tissue damage were noted in the sinuses and brain, but due to the preexisting skull abnormalities, specific entry wounds were obscured, except for one wound from a stun applied behind the poll.

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 313.50(b). This decision is based on information that your establishment has developed and implemented a humane handling program that meets the criteria described in the Federal Register Notice of September 9, 2004, for a systematic approach to handling of livestock for slaughter and that program was being implemented at the time of the observed incident. Additionally, the compliance history concerning humane handling at your establishment has consistently been compliant with the humane handling regulations.

According to the FSIS Rules of Practice laid out in regulation 9 CFR Part 500.3(b), FSIS may impose a suspension without providing prior notification because an establishment is handling or slaughtering animation inhumanely. Alternatively, FSIS may issue a withholding action or suspension with prior notification in certain cases based on considerations of establishment history of compliance with the humane handling regulations, demonstration of implementation of a robust systematic approach to humane handling, whether suspension is necessary to prevent inhumane handling from continuing, and whether the egregious noncompliance represents a rare finding or an anomaly in an otherwise well-functioning system.

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.

The corrective actions and preventive measures in your response should address the following:

1. An initial assessment of incident/determine the cause.
2. Immediate corrective actions taken.
3. Preventive measures to prevent reoccurrence.
4. Any training of employees and materials used.
5. Type of monitoring activity, along with a documentation record.

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

Brandi Krause, Establishment Manager
TTJ Packing Inc. Est. M45392

Notice of Intended Enforcement
May 30, 2023

1400 Independence Avenue, SW
South Building, Room 1330A
Washington, DC 20250
sherri.johnson@usda.gov
Phone number: 202-379-6196

In addition, you may also request a hearing regarding this determination pursuant to FSIS Rules of Practice, regulation 9 CFR Part 500. The Rules of Practice were published in the Federal Register, Vol. 64, No. 228, on November 29, 1999. As specified in Section 500.5(d), 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, you should contact:

Attention: Scott C. Safian, Director
Enforcement Operations Staff
Office of Investigation, Enforcement and Audit
Food Safety and Inspection Service
United States Department of Agriculture
Stop Code 3753, PP3, Cubicle 9-235-A
1400 Independence Avenue, SW
Washington, DC 20250
Phone number: 202-418-8872
Fax number: 202-245-5097

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

Sincerely,

MARK
JOHNSON Digitally signed
by MARK
JOHNSON
Date: 2023.05.31
06:16:34 -05'00' (for)

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