



Food Safety and  
Inspection Service

February 29, 2024

Office of Field  
Operations  
Des Moines  
District Office

Electronically mailed on February 29, 2024

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## NOTICE OF SUSPENSION

Attention: Mr. Bahls

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 North Dakota State University Meat Laboratory, Establishment M7627, located at 1350 Albrecht Blvd, Fargo, North Dakota 58102. This letter follows notification via phone and email of the suspension action, provided by (b) (6), Frontline Supervisor, to (b) (6), Animal Science Supervisor, at approximately 1545 hours on February 28, 2024. (b) (6) confirmed via phone that he received the notification with (b) (6), Supervisory Public Health Veterinarian, at 0813 hours on February 29, 2024.

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 February 28, 2024. 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**

On February 28, 2024, at approximately 1012 hours, while performing a Livestock Humane Handling task observing HATS Category VIII (Stunning Effectiveness), the following noncompliance was observed. The establishment employee stunned bovine #4 with a hand-held captive bolt device (HHCB) and the animal dropped, eyes rolled, and no blinking was observed. The animal was rolled from the restrainer to the slaughter floor and shackled. The animal was hoisted to be bled. When the animal was being stuck, IPP observed the animal blink multiple times and vocalize three times, with open mouth bellowing, as the carotid artery was being cut, which indicates that the animal had returned to a conscious state. (b) (6) stated he saw the animal stiffen and attempt to right itself as he was sticking the animal.

There were no other attempts made to render the animal unconscious due to the backup HHCB device not being readily available. The animal bled out and became unconscious.

(b) (6), Animal Science Supervisor, Jason Bahls, Plant Supervisor, and (b) (6) Plant Manager, were notified of the forthcoming noncompliance with 9 CFR 313.15(a)(1) and 313.15(a)(3), and that USDA IPP would be contacting the District Office for further guidance. FSIS IPP took regulatory control action, and the restrainer was tagged with U.S. Reject tag B-45412624.

The carcass head was examined, skinned, and the brain removed. The HHCB stun wound was between the eyes approximately mid-forehead. The research team that was present removed the skull cap to remove the brain. A member of the team stated that the stun did not fully penetrate the brain.

### **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) 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 it not considered robust. Based on the above findings, the Des Moines District Office has made a 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: 2024.02.29  
12:19:00 -0600

Mr. Jeffery Jacobsen  
District Manager  
USDA FSIS OFO  
Des Moines District