



April 24, 2023

Towson Cold Storage
EST. M18731
301 South Ridge Ave.
Tifton, GA 31794
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(229) 388-3242

ELECTRONIC MAIL on April 24, 2023
FEDEX TRACKING NUMBER:
771942760523

Attention: Mr. Bill Towson, Plant Manager

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 Towson Cold Storage, M18731, located at 301 South Ridge Ave, Tifton, GA 31794. This letter follows verbal notification of the suspension action, provided by Dr. Edward Hepburn, Atlanta Deputy District Manager, to Mr. Bill Towson, Plant Manager at approximately 1:04 PM April 20, 2023. This action includes your 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 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

This Notice of Intended Enforcement is based upon your establishment being in violation of 9 CFR 313.15 (a)(1), 9 CFR 313.15 (a)(2), 9 CFR 313.15(b)(1)(iii), 9 CFR 313.15(b)(1)(iv), 9 CFR 313.16 (a) (1), 9 CFR 313.16 (a) (2), 9 CFR 313.16 (a) (3), 9 CFR 313.16 (b) (1) (i), 9 CFR 313.16 (b) (1) (ii), 9 CFR 313.16 (b) (1) (iii), 9 CFR 313.16 (b) (1) (iv), and 9 CFR 313.16 (a) (2).

9 CFR 313.15(a)(1) states: *The captive bolt stunners shall be applied to the livestock in accordance with this section so as to produce immediate unconsciousness in the animals before they are shackled, hoisted, thrown, cast, or cut. The animals shall be stunned in such a manner that they will be rendered unconscious with a minimum of excitement and discomfort.*

9 CFR 313.15(a)(2) states: *The driving of the animals to the stunning area shall be done with a minimum of excitement and discomfort to the animals. Delivery of calm animals to the stunning areas is essential since accurate placement of stunning equipment is difficult on nervous or injured animals. Among other things, this requires that, in driving animals to the stunning areas, electrical equipment be used as little as possible and with the lowest effective voltage.*

9 CFR 313.15(b)(1)(iii) states: *The stunning area shall be so designed and constructed as to limit the free movements of animals sufficiently to allow the operator to locate the stunning blow with a high degree of accuracy.*

9 CFR 313.15(b)(1)(iv) states: *The stunning operation is an exacting procedure and requires a well trained and experienced operator. He must be able to accurately place the stunning instrument to produce immediate unconsciousness.*

9 CFR 313.16 (a)(1) states: *The firearms shall be employed in the delivery of a bullet or projectile into the animal in accordance with this section so as to produce immediate unconsciousness in the animal by a single shot before it is shackled, hoisted, thrown, cast, or cut. The animal shall be shot in such a manner that they will be rendered unconscious with a minimum of excitement and discomfort.*

9 CFR 313.16 (a)(2) states: *The driving of the animals to the shooting areas shall be done with a minimum of excitement and discomfort to the animals. Delivery of calm animals to the shooting*

area is essential since accurate placement of the bullet is difficult in case of nervous or injured animals. Among other things, this requires that, in driving animals to the shooting areas, electrical equipment be used as little as possible and with the lowest effective voltage.

9 CFR 313.16 (a) (3) states: Immediately after the firearm is discharged and the projectile is delivered, the animal shall be in a state of complete unconsciousness and remain in this condition throughout shackling, sticking and bleeding.

9 CFR 313.16 (b)(1)(i) states: On discharge, acceptable firearms dispatch free projectiles or bullets of varying sizes and diameters through the skull and into the brain. Unconsciousness is produced immediately by a combination of physical brain destruction and changes in intracranial pressure. Caliber of firearms shall be such that when properly aimed and discharged, the projectile produces immediate unconsciousness.

9 CFR 313.16 (b)(1)(ii) states: To assure uniform unconsciousness of the animal with every discharge where small-bore firearms are employed, it is necessary to use one of the following type projectiles: Hollow pointed bullets; frangible iron plastic composition bullets; or powdered iron missiles. When powdered iron missiles are used, the firearms shall be in close proximity with the skull of the animal when fired. Firearms must be maintained in good repair. For purposes of protecting employees, inspectors and others, it is desirable that all firearms be equipped with safety devices to prevent injuries from accidental discharge. Aiming and discharging of firearms should be directed away from operating areas.

9 CFR 313.16 (b)(1)(iii) states: The provisions contained in §313.15(b)(1)(iii) with respect to the stunning area also apply to the shooting area.

9 CFR 313.16 (b)(1)(iv) states: The shooting operation is an exacting procedure and requires a well-trained and experienced operator. He must be able to accurately direct the projectile to produce immediate unconsciousness. He must use the correct caliber firearm, powder charge and type of ammunition to produce the desired results.

9 CFR 313.16 (b)(2) states: Choice of firearms and ammunition with respect to caliber and choice of powder charge required to produce immediate unconsciousness of the animal may vary depending on age and sex of the animal. In the case of bulls, rams, and boars, small bore firearms may be used provided they are able to produce immediate unconsciousness of the animals. Small bore firearms are usually effective for stunning other cattle, sheep, swine, and goats, and calves, horses, and mules.

Specifically, on Tuesday April 18, 2023, at approximately 1145 hours during routine slaughter of swine IPP observed the following humane handling non-compliance at Towson Cold Storage establishment # M18731. Plant personnel attempted for approximately 10 minutes to move the first hog (large aggressive barrow) into the stunning area with both a paddle and a hot shot device. Pig was poked in both the abdomen and thoracic cavity. Pig was vocalizing while being prodded with both hot shot and paddles. Barrow was agitated and aggressively biting at the employees and at the prods and vocalizing. The barrow was brought into the stunning area and plant personnel attempted to stun the animal using a .22 caliber long rifle. Plant employee aimed the firearm at the

frontal anatomical location on pig. IPP remained away from where forearm was being discharged due to safety concerns. IPP did not visualize the anatomical location where the animal was being shot. This was due to safety concerns with the firearm. The barrow did not go down after the first attempted stun and continued to stay standing with blood seen dripping from both nostrils. He did not vocalize.

The bullet was jammed inside the rifle and plant personnel needed to exit the stunning area/room to retrieve a tool to get it unjammed. This took 4 minutes. A second shot with the .22 long rifle was administered to the barrow. The animal was not stunned, continued to stand, and vocalized. 50 seconds elapsed and a third shot with the .22 long rifle was administered to the hog. The barrow did not go down, remained standing, and vocalized. 45 seconds elapsed and the fourth shot with a captive bolt was administered to the hog. The hog did not go down, remained standing, and vocalized. 50 seconds elapsed and a fifth shot with the .22 long rifle was administered to the hog. The hog did not go down, remained standing, and continued to vocalize. 1:00 minute elapsed and a sixth shot was administered with the .22 long rifle to the hog, and this shot successfully rendered the animal unconscious. Plant management indicated this shot was directed from behind the ear towards the opposite eye. Operations were stopped and U.S. reject tag #B38708372 was applied to the stunning area to prevent any additional animals from being slaughtered. Plant management was verbally made aware of the halt in operations. Upon postmortem inspection four entry holes were seen. The establishment has a Robust Systemic Approach for humane handling of livestock, but it was not effectively implemented to prevent the noncompliance.

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.

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.

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). Evidence demonstrates your failure to meet regulatory requirements addressed in 9 CFR 313.15 (a)(1), 9 CFR 313.15 (a)(2), 9 CFR

Mr. Bill Towson, Plant Manager
Towson Cold Storage, M 18731

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313.15(b)(1)(iii), 9 CFR 313.15(b)(1)(iv), 9 CFR 313.16 (a) (1), 9 CFR 313.16 (a) (2), 9 CFR 313.16 (a) (3), 9 CFR 313.16 (b) (1) (i), 9 CFR 313.16 (b) (1) (ii), 9 CFR 313.16 (b) (1) (iii), 9 CFR 313.16 (b) (1) (iv), and 9 CFR 313.16 (a) (2), 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, 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:

Melissa Moore,
Executive Associate for Regulatory Operations
Office of Field Operations
Food Safety and Inspection Service
United States Department of Agriculture
SB, Room 344-E
1400 Independence Avenue, SW
Washington, DC 20250
Email: melissa.moore1@usda.gov
Phone: (202)-450-0330

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

Mr. Bill Towson, Plant Manager
Towson Cold Storage, M 18731

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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, please contact Dr. Phyllis Adams via telephone at (404)-562-5900 or via electronic mail at Phyllis.adams@usda.gov. Additionally, you can contact the Atlanta District Office at (404)-562-5900 or by fax at (404) 652-5877.

Sincerely,

PHYLLIS Digitally signed by
PHYLLIS ADAMS
ADAMS Date: 2023.04.24
15:01:08 -04'00'

Dr. Phyllis Adams
District Manager

Mr. Bill Towson, Plant Manager
Towson Cold Storage, M 18731

April 24, 2023

cc: Melissa Moore, EARO
Alexander Domesle, Acting EARO
Phyllis Adams, DM
(b) (6), Humane Handling Enforcement Coordinator
Scott Ehle, Acting OIEA Regional Director
Edward Hepburn, DDM
Barney Welch, DDM
Tracy Bryant, DDM
(b) (6), SEIAO
(b) (6), DCS
(b) (6), DVMS
(b) (6), TA Coordinator
(b) (6), IIC at M18731
FO/Quarterly Reports