



United States Department of Agriculture

Food Safety and  
Inspection Service

October 4, 2021

Digitally signed copy hand-delivered

Office of Field  
Operations

Larry Carter  
Vallia Foods, LLC  
3705 Highway 89  
Jefferson, WI 53549

Des Moines District  
Office

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

**NOTICE OF REINSTATEMENT OF SUSPENSION**

Phone: 515-727-8960  
Fax: 515-727-8991

Dear Mr. Carter:

This letter confirms verbal notification by the Des Moines District, Food Safety and Inspection Service (FSIS) on October 1, 2021, of the decision to reinstate the suspension of the assignment of inspection program personnel (IPP) at your firm, Est. M44183, Vallia Foods, LLC., herein referred to as the/your establishment. This action is taken in accordance with the Rules of Practice, 9 CFR 500.3(b), which indicates 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 such as occurred at your establishment on October 1, 2021.

**Background**

The *Federal Meat Inspection Act* (FMIA) (Title 21 United States Code {21 U.S.C.} 603 et seq) provides for the purpose of preventing the inhumane slaughtering of livestock. This Act gives FSIS the authority, as designated by the Secretary of the Department of Agriculture, to prescribe rules and regulations describing examinations and inspections of the method by which cattle, sheep, swine, goats, horses, mules, and other equines are slaughtered in the establishments inspected under this Act. The FMIA also provides FSIS program personnel the authority to temporarily suspend at a slaughtering establishment if FSIS 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 Title 7 of the *Humane Methods of Slaughter Act* (HMSA) (72 Statute 862; 7 U.S.C. 1901 to 1906), until the establishment furnishes assurances, satisfactory to FSIS, that all slaughtering and handling in connection with the slaughter of livestock shall be in accordance with such methods.

The HMSA (7 U.S.C. 1901 et seq.) states 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.

Under the authorities of the Acts, FSIS has prescribed rules and regulations required for the humane slaughtering of livestock, as contained in regulations Title 9 CFR Part 313, and the HMSA. FSIS has also developed Rules of Practice regarding enforcement prescribed in Title

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 1100 hours on October 1, 2021, IPP observed a noncompliance while performing HATS Category VIII, Stunning Effectiveness. The fourth animal (Brown Swiss Cow) of the day was brought into the stunning area where its head was restrained in the head restrainer. IPP observed establishment personnel place and fire the held-held captive bolt (HHCB) device. The animal remained conscious and was standing upright, pulled her head backward with the head remaining in the restrainer. The stunning operator was able to then place the back-up HHCB onto the head of the cow and made a second attempt to render the animal unconscious. The animal remained upright, its eyes were tracking movement and made attempts to avoid the HHCB. The Establishment Manager, Larry Carter then made a third attempt with the HHCB device and failed to render the animal unconscious. Mr. Carter made a fourth attempt and succeeded in rendering the animal unconscious. IPP informed Mr. Carter that the establishment had failed to meet the regulatory requirements of 9 CFR 313.15(a)(1) and that IPP will take a regulatory control action and contact the Des Moines District Office through supervisory channels for further guidance regarding possible enforcement action. The stunning area was tagged with U.S Reject tag number B-46100162.

IPP inspected the head after it had been removed from the carcass. IPP, referring to the training used by the establishment “Observation of Stunning Placement in Cattle”, observed that the placement of three puncture holes were lower than prescribed and a fourth hole was within their guidelines. The establishment proceeded to split the head along the medial line with a saw, to gain visual access to the brain cavity.

This is a violation of the FMIA (21 U.S.C.) 603, regulations 9 CFR 313.15(a)(1) and the HMSA of 1978.

### **Justification**

Currently, your slaughter process is operating under the terms of a Notice of Suspension Held in Abeyance (NOSA) as a result of an egregious inhumane handling incident on September 27, 2021. This NROS is being issued for the failure to effectively stun a Brown Swiss Cow with a hand-held captive bolt device, which indicates a failure to follow or adequately implement your systematic approach.

The suspension of the assignment of inspectors will remain in effect until such time that you provide to this office adequate written corrective actions and preventive measures 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 NROS 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. Preventive measures to prevent reoccurrence.
4. Any training of employees and materials used.

5. Type of monitoring activity for stunning, along with a documentation record.

You are reminded that as an operator of a federally inspected establishment, you are expected to comply with FSIS regulations, regarding the humane handling and slaughter of livestock. Please be advised that you have the right to appeal this matter. If you wish to appeal, you should contact:

Attention: Sherri N. Johnson  
Acting Executive Associate for Regulatory Operations  
Office of Field Operations  
Food Safety and Inspection Service  
United States Department of Agriculture  
1400 Independence Avenue, SW  
Room 1330A, South Building  
Washington, DC 20250  
Office number: 202-379-6196  
[sherri.johnson@usda.gov](mailto:sherri.johnson@usda.gov)

In addition, you may also request a hearing regarding this determination pursuant to FSIS Rules of Practice, 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:

Scott C. Safian, Branch Chief  
Enforcement Operations Branch  
Office of Investigation, Enforcement and Audit  
Food Safety and Inspection Service  
United States Department of Agriculture  
Stop Code 3753, PP3, Cubicle 8-235-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 or (b) (6)

Sincerely,

**DAWN SPROULS** Digitally signed by DAWN SPROULS  
Date 2021.10.04 09:03:20 -0500

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