



United States Department of Agriculture

Food Safety and
Inspection Service

April 6, 2022

Digitally signed copy hand-delivered

Office of Field
Operations
Des Moines District
Office

Terry O'Rourke, Establishment Manager
Prestage Foods of Iowa
3183 Hwy 17
Eagle Grove, IA 50533

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

NOTICE OF SUSPENSION

Dear Mr. O' Rourke:

Voice 515.727.8960
Fax 515.727.8991

This letter confirms verbal notification by the Des Moines District Office, Food Safety and Inspection Service (FSIS) on April 6, 2022, of the decision to suspend the assignment of slaughter Inspection Program Personnel (IPP) at your firm, establishment Prestage Foods of Iowa, M51340, located at 3183 Hwy 17, Eagle Grove, Iowa, herein referred to as the/your establishment. This action is taken in accordance with the Rules of Practice regulation 9 Part Code of Federal Regulations (CFR) Part 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. FSIS is taking action due to an egregious inhumane handling incident that occurred at your establishment on April 6, 2022.

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.

Under the authorities of the Acts, FSIS has prescribed rules and regulations for the humane slaughtering of livestock, as contained in regulations 9 CFR Part 313, and the HMSA of 1978. FSIS has also developed Rules of Practice regarding enforcement prescribed in regulations 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 1:50pm, In-Plant Inspection personnel (IPP) was entering the barn to perform the final HATS Category IV- Ante-mortem Inspection task when IPP observed a noncompliance with HATS Category VIII – Stunning Effectiveness. An establishment barn employee was preparing a hand-held captive bolt (HHCB) device for stunning of a hog standing on all four feet next to him near the gate to pen 230. He positioned the HHCB device captive bolt and made an initial stunning attempt. The hog was conscious, standing still and appeared dazed but did not go down. IPP went and examined the head, and the skin was not broken. On the second stun attempt with the same HHCB device, it went off and the bolt penetrated the head. The hog dropped to its stifles and hocks and was conscious and began to move away from the employee. The hog could not walk and was crawling and dragging itself on its hocks and stifles and maneuvered itself from the front alley gate of pen 230 to the entry of the non-ambulatory pen, which is approximately ninety (90) feet. IPP called for the (b) (6) (b) (6), who was nearby. (b) (6) took the HHCB device from the employee, who had reloaded it and used this same captive bolt to perform the third stun which rendered the animal unconscious.

IPP applied U.S. Rejected tags B-45 098810 and B-45 098812 to the two Butina alleys. (b) (6) (b) (6) was informed of the noncompliance, forthcoming noncompliance record and that IPP would be contacting the district office for further guidance.

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

Conclusion

The observations detailed above indicate an egregious violation of the humane handling requirements specified within the provisions of 21 U.S.C. 603, Section 3(b) of the FMIA, and Title 7 U.S.C. 1901 and 1902 of the HMSA of 1978 and the regulatory requirements outlined in 9 CFR Part 313.15(a).

The establishment does not have a humane handling program that meets the four criteria as described in the Federal Register Notice of September 9, 2004. Based on the above findings, the Des Moines District Office has determined 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 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. 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
South Building, Room 1330A
Washington, DC 20250
Office number: 202-379-6196
sherri.johnson@usda.gov

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, or (b) (6) (b) (6)

Sincerely,



Digitally signed by Todd C.
Gerwig
Date: 2022.04.06 20:34:28
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for Dawn Sprouls, DVM
District Manager
USDA FSIS OFO
Des Moines District