



United States Department of Agriculture

Food Safety and
Inspection Service

June 30, 2022

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Office of Field
Operations
Des Moines District
Office

(b) (6)
Vallia Foods, LLC
3705 Highway 89
Jefferson, WI 53549

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

NOTICE OF REINSTATEMENT OF SUSPENSION

Voice 515.727.8960
Fax 515.727.8991

Dear (b) (6),

This letter confirms verbal notification by the Des Moines District Office, Food Safety and Inspection Service (FSIS) on June 28, 2022, of our decision to reinstate the suspension of the assignment of slaughter Inspection Program Personnel (IPP) at Establishment M44183, Vallia Foods, LLC., located at 3705 Highway 89, Jefferson, Wisconsin, 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 June 28, 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 1250 on 28 June 2022, IPP observed a non-compliance while performing HATS Category VIII, Stunning Effectiveness. The twenty second animal (a large sow) was brought into the stunning area where the head was marked for captive bolt. The stunning operator fired the first captive bolt device on the marked spot but had little to no effect on the animal. The animal took a step back, remained standing and conscious. The operator took immediate action and fired a second captive bolt device (was loaded and ready for use) from the back of the animal's right ear but that too had little effect and the animal remained standing and conscious. The operator then got a firearm (.380 pistol) and fired one shot which rendered the animal unconscious. The firearm was locked in a locker approximately 10 feet away from knock box. When the operator noticed he needed the firearm, he went and got maintenance to unlock the locker to access the firearm. The IPP notified management, (b) (6), they had failed to meet regulatory requirements of 9 CFR 313.15(a)(1). Management was informed that IPP will take regulatory control action and contact District office through supervisory channels for further guidance regarding possible enforcement action. The stunning area was tagged with U.S. Reject tag B-15-262921.

A postmortem was done on the head and the findings included the following:

- 1.) The first captive bolt shot had good placement but did not pierce the skull.
- 2.) The second captive bolt shot from behind the right ear had a good angle but only penetrated roughly 4 inches and did not puncture the skull.
- 3.) The gunshot was placed roughly 1 inch to the left of the first captive bolt shot, which punctured the skull and rendered the animal unconscious.

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

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 April 4, 2022. This NROS is being issued for the failure to effectively stun a sow with a HHCB as described above, which indicates a failure to follow or adequately implement your humane handling program.

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.

As you are aware, on September 4, 2021, October 1, 2021, and April 6, 2022, your establishment was also suspended for egregious human handling noncompliance with 313.15(a)(1) due to ineffective stunning with a HHCB. Repetitive noncompliance leaves the agency without assurance that your corrective actions previously implemented are effective in preventing recurrence.

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 effectiveness, 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, (b) (6).
(b) (6).

Sincerely,



Digitally signed by Todd C.
Gerwig
Date: 2022.06.30 11:36:53 -05'00'

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