



United States Department of Agriculture

Food Safety and
Inspection Service

Office of Field
Operations
Des Moines District
Office

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

Voice 515.727.8960
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July 29, 2020

Signed original sent via FedEx

John Prestage, Owner
Prestage Foods of Iowa
216 N Commercial Avenue
Eagle Grove, Iowa 50533

NOTICE OF SUSPENSION

Mr. Prestage,

This letter confirms verbal notification given to you by the Food Safety and Inspection Service (FSIS) on July 28, 2020, of our decision to suspend the assignment of FSIS inspection program personnel (IPP) at, Prestage Foods of Iowa, 216 N Commercial Avenue, Eagle Grove, Iowa, herein referred to as “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 July 28, 2020.

Background

The *Federal Meat Inspection Act* (FMIA) (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. They also provide FSIS program personnel the authority to temporarily suspend activities 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 the *Humane Methods of Slaughter Act* of August 27, 1958 (72 Stat. 862; 7 U.S.C. 1901-1906), 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.

Under the authorities of the Acts, FSIS has prescribed rules and regulations required for the humane slaughtering of livestock, as contained in Regulations 9 CFR Part 313, and the *Humane Methods of Slaughter Act* of 1978. FSIS has also developed Rules of Practice regarding enforcement prescribed in 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

While walking to the barn through the bleed chain area to perform HATS Category IV – Ante-mortem Inspection, IPP observed the following non-compliance with HATS Category IX – Consciousness on the Rail: IPP noticed a market hog kicking at the distant end of the bleed chain prior to the U-turn where the line goes into the first tank, the polisher. The hog had passed through the carbon dioxide stunner, was past the stick station for bleeding and had not been captive bolt stunned. IPP observed the hog repeatedly blinking its eyes in a complete open and closed motion. The eyes were focused on IPP and still pulled in by the periocular and retrobulbar eye muscles, which would be relaxed and bulging if properly stunned. The hog was rhythmically breathing and was moving all four legs randomly but with controlled kicking and swimming movements. The hog was lifting its head up towards its back/spine in a controlled manner and arching its back, as in a righting reflex. As the conscious hog was approaching the polisher, IPP repeatedly called and motioned for the employee performing the stick to stop the line and get the captive bolt gun, since that is where the bleed chain line stop button is located. The employee did not respond to the request and since the hog was reaching the polisher, IPP immediately and quickly proceeded to the stick station and stopped the line. IPP then requested that the hog be properly stunned. An employee from the shackle table proceeded with IPP to observe the hog and IPP noticed it continued to move its legs in a controlled manner, was breathing, and was still blinking its eyes. Some time passed and when no one arrived to stun the hog IPP headed towards the barn. IPP saw (b) (6) and informed him of the conscious hog on the bleed chain line. He then effectively rendered the hog unconscious with the hand-held captive bolt device. When the hog was properly stunned, it was located between the polisher and the scald tank. IPP informed (b) (6) and (b) (6) of the observations and that IPP would be taking a regulatory control action and no further stunning could take place until IPP contacted the District Office. IPP placed U.S. Reject tag number B 45098513 to the alleyway to the carbon dioxide stunnings.

The incident described above indicates a violation of the *Federal Meat Inspection Act* (FMIA) (21 U.S.C.) 603, Regulations 9 CFR 313.5 and the *Humane Methods of Slaughter Act* of 1978.

Justification

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 will suspend the assignment of inspectors for your slaughter operations, as per the Rules of Practice 9 CFR 500.3(b) and as specified in 9 CFR 313.5.

If you choose to respond with corrective and preventive measures please provide this office with a written response concerning the Notice of Suspension (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 incident/determine 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 and consciousness, , 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:

U.S. Department of Agriculture
Food Safety and Inspection Service
Attention: Paul Wolseley, EARO
1400 Independence Avenue, SW
Room 344-E, Whitten Building
Washington, DC 20250

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, Director
Food Safety and Inspection Service
Office of Investigation, Enforcement and
Audit Enforcement and Litigation Division
United States Department of Agriculture Stop
Code 3753, PP3, Cubicle 8-243A 1400
Independence Avenue, SW
Washington, DC 20250
Telephone: (202)-418-8872
Fax: (202) 245-5097

We urge your cooperation and voluntary compliance. If you have questions regarding this matter, please feel free to contact (b) (6)

(b) (6) or the Des Moines District Office, at 515-727-8960.

Sincerely,



Dr. Dawn Sprouls
District Manager
Des Moines District
FSIS, USDA