



SENT VIA UPS &
ELECTRONIC MAIL

November 14, 2013

(b) (6)

Tyson Fresh Meats (Madison)
Est. M244 M
1200 Industrial Parkway
Madison, Nebraska 68748

(b) (6) @tyson.com

NOTICE OF INTENDED ENFORCEMENT

Dear (b) (6)

This letter serves as official notification by the Food Safety Inspection Service (FSIS) of its intent to withhold the marks of inspection and suspend the assignment of FSIS Inspection Program Personnel (IPP) at your establishment, Tyson Fresh Meats (Madison), Est. M244 M, located at 1200 Industrial Parkway, in Madison, Nebraska. The decision was made in accordance with 9 CFR 500.2(a)(4) (Rules of Practice), based on your failure to meet regulatory requirements in regards to the humane handling of animals at your establishment during slaughter.

Background Authority

The Federal Meat Inspection Act (FMIA) 21 U.S.C. Section 610 and the Humane Methods of Slaughter Act, 7 U.S.C. 1901-1906, considers any slaughter or handling in connection with slaughter of cattle, sheep, swine, and goats in any manner not in accordance with the Act of August 27, 1958, a Prohibited Act. These Acts give FSIS the legal authority, as designated by the Secretary of the Department of Agriculture, to prescribe rules and regulations describing humane handling requirements for federally inspected slaughter establishments.

Under the authorities of these Acts, FSIS has prescribed rules and regulations for establishments producing meat products, including the requirements pertaining to the humane handling of livestock (9 CFR Part 313.2). FSIS has also developed Rules of Practice regarding 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 Federal Inspection.

Food Safety and Inspection Service
Denver District Office
1 Denver Federal Center, Bldg. 45, PO Box 25387
Denver, CO 80225
(303) 236-9800 Fax (303) 236-9794
An Equal Opportunity Provider and Employer

Findings/Basis for Action

On November 14, 2013, (b) (7)(C) observed one of the plant employees move approximately ten (10) ambulatory hogs towards and over a non-ambulatory hog lying in the corner of a holding pen (b) (7)(C) observed at least two animals step directly on the non-ambulatory hog, as the plant employee attempted to move the standing animals out of the pen. The plant employee continued down the alley way and left the non-ambulatory animal in the pen. (b) (7)(C) notified the (b) (6) of the situation. A Regulatory Control Action (RCA) was taken per 9 CFR 500.2 (a)(4), and U. S. Retain Tag #B38973262 was placed on the restrainer. (b) (7)(C) contacted the Denver District Office and her direct supervisor, (b) (7)(C).

On July 9, 2013, Noncompliance Record (NR) PGC5315070709 N/1 was issued due to a similar inhumane handling incident. On July 9, 2013, FSIS IPP observed a non-ambulatory animal being stepped on by other hogs while on the scale.

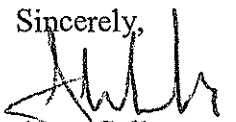
After review of the firm's written Animal Well-Being Program, which includes a robust systematic approach; prior documents (including NRs); and plant history, the RCA was lifted and the firm was allowed to resume slaughter operations.

The above cited incident leaves the Agency without assurances that the establishment's Animal Well-Being Program is adequate to ensure livestock are humanely handled as defined in 21 U.S.C. 610 and 7 U.S.C. 1901-1906.

In accordance with FSIS' Rules of Practice, 9 CFR 500.4, we are notifying you of our intent to withhold the marks of inspection and suspend the assignment of inspectors at your facility if no corrective actions and/or preventive measures to prevent the recurrence are taken. Please provide the Denver District Office a written response within three (3) working days from the receipt of this letter, no later than the close of business, November 19, 2013. Your response should include the corrective actions and/or preventive measures taken for deficiencies found in your Animal Well-Being Program, and any modifications you made, or plan to make, to your other programs and recordkeeping procedures. FSIS will evaluate your response and determine if further administrative enforcement action(s) will be necessary.

If you have questions regarding this matter, please contact the Denver District Office at (303) 236-9800.

Sincerely,



Anna Gallegos
District Manager
Denver District

cc: FO/QER

Reader File
Est. File
R. Reeder, DDM
S. Wagner, DDM

(b) (7)(C)