



Field
Operations

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

January 30, 2013

Signed copy hand delivered
Signed Original sent via UPS Priority

JBS Green Bay, Inc.
Mr. (b)(6)(b)(7)(C) General Manager
1330 Lime Kiln Rd
Green Bay, WI 54311

Notice of Intended Enforcement

Dear Mr. (b)(6)(b)(7)(C)

This letter confirms verbal notification given to you, Des Moines District, Food Safety and Inspection Service (FSIS) that on January 29, 2013, of our decision to issue a Notice of Intended Enforcement (NOIE) for slaughter operations at your firm, JBS Green Bay, Est. M562, Green Bay, WI. This action is taken in accordance with the Rules of Practice 9 CFR 500.3 (b), which indicates that FSIS can take a regulatory control action, the program employee will immediately notify the establishment orally or in writing of the action and the basis for the action, if it is handling or slaughtering animals inhumanely such as, that which occurred at your establishment on January 29, 2013.

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 operations 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 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

At establishment 562 at approximately 11:20 am, January 29, 2013, the following non-compliance was observed. The Public Health Veterinarian (PHV) was performing verification for consciousness on the bleed rail. From his position he was also able to observe the stunning of animals coming off the restrainer. The PHV looked up to the restrainer and observed an establishment employee mis-stun a Holstein cow with the Jarvis air stunner. The bolt penetrated the cow's skull but to the left. The cow looked startled and picked up its head. The employee then grabbed a handheld stunner and attempted to re-stun the animal. The employee mis-stunned the animal on the second try, again penetrating the skull but off to the left. The cow was still conscious. The employee then picked up the second back up handheld stunner and successfully rendered the animal insensible with the third shot. The PHV would estimate that all three shot were within a 10 second window.

The PHV then informed the Supervisory Consumer Safety Inspector (SCSI) who was observing the stunning process to take a regulatory control action. The SCSI then informed the "knocker" to stop production. The "Harvest Superintendent", was also informed of the situation at this time. The PHV allowed the establishment to stun the three remaining cows in the restrainer and then the company went to lunch break. The head of the thrice stunned animal was skinned and he confirmed the number and placement of the penetrations.

The inaccurate placement of the first two stunning attempts caused this animal unnecessary pain and suffering. The establishment is in non-compliance of the regulations cited above.

This is a violation of the Federal Meat Inspection Act (FMIC) (21 U.S.C.) 603), Regulations 9 CFR Part 313, and the Humane Methods of Slaughter Act of 1978.

Based on the above findings, the Des Moines District Office has determined to issue a Notice of Intended Enforcement for your slaughter operations, as per the Rules of Practice 9 CFR 500.3(b) and as specified in 9 CFR 313.50 (b). The NOIE is being issued so you can provide adequate written corrective and preventive measures to assure that all livestock at your facility will be handled in a humane manner during slaughter.

You are reminded that as an operator of a federally inspected plant, you are expected to comply with FSIS regulations, with regard to the humane handling and slaughter of livestock.

In accordance with FSIS' Rules of Practice, 9 CFR 500.3 (b) we are notifying you of our intent to withhold the marks of inspection and suspend the assignment of inspectors at your facility. Please provide this office with a written response concerning this notice of intended enforcement (NOIE) within three (3) working days from the date of your receipt of this letter. We will determine further action, if any, based upon your response.

We urge your cooperation and voluntary compliance. Please direct any questions to Dr. (b)(6)(b)(7)(C) or Mr. Todd Gerwig, Deputy District Manager, (DDM) at: 515-727-8960, or Dr. (b)(6)(b)(7)(C) District Veterinary Medical Specialist, (DVMS) at 515-727- (b)(6)(b)(7)(C)

Sincerely,



Dr. Dawn Sprouls
District Manger
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Des Moines District