



Food Safety
Inspection Service

October 10, 2013

Office of Field
Operations
Des Moines District
Office

Signed Copy sent electronically
Signed Original sent via UPS Priority

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Room 985
Des Moines,
Iowa 50309-2123
Voice 515.727.8960
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(b) (6)
Triple J Family Farms, LLC
Establishment 17466
53050 US Highway 212
Buffalo Lake, Minnesota 55314

Notice of Suspension

Dear (b) (6)

This letter confirms verbal notification given to you, by Dr. Dawn Sprouls, District Manager, Des Moines District, Food Safety and Inspection Service (FSIS) on October 10, 2013 at approximately 1240 hours, of our decision to suspend the assignment of inspectors for slaughter operations at your firm, Triple J Family Farms, LLC, Establishment 17466, located at, 53050 US Highway 212, Buffalo Lake, Minnesota. This action is taken in accordance with the Rules of Practice 9 CFR 500.3(b), which indicates that FSIS can take a withholding action or impose a suspension without providing an establishment prior notification if it is handling or slaughtering animals inhumanely such as, that which occurred at your establishment on October 10, 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

On Thursday, October 10 2013 at approximately 1115 hours, (b) (7)(C) while performing a Humane Handling task the following situation was observed: An animal was inside the knock box, however after a prolonged period of attempting to get the animal properly restrained into the chin lift, it became clear that the animal was too small for the apparatus. The animal appeared to become somewhat panicked, and was bellowing. Barn personnel made the determination to knock the animal with the handheld captive bolt due to her size not allowing for proper restraint, however when the bolt fired, the animal moved its head at the last moment, therefore preventing proper placement. The bolt fired, and impacted the animal caudal to the right orbit. The animal was seen to have blood coming from the entrance wound, and was observed to maintain a full level consciousness, including blinking, standing upright, and decisively moving its head and limbs. In addition the animal vocalized a number of times, as the barn employee reloaded the captive bolt. The employee was not at first able to determine if he had in fact hit the animal at all with the captive bolt, however was informed by (b) (7)(C) that it appeared that it had and that the animal should be promptly stunned again. Due to lack of continued proper restraint of the animal, the employee was unable to obtain a good position to stun the animal a second time. Approximately 2 minutes transpired between when the animal was stunned the first time until the employee was able to stun it again. The knock box was immediately tagged with US Reject Tag B36896496, and barn personnel were instructed that no more animals were allowed to enter the box until such time as the IIC should remove the tag. Examination of the head of the animal in question demonstrated 1 hole which was centrally located from the effective second stun, and a second hole slightly caudal to the right orbit, which had penetrated the hide and muscular layer beneath. The (b) (7)(C) was immediately notified of the situation who then in turn notified the District Office.

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.

Discussion

Establishment M17466 has a written humane handling program that meets 3 of the 4 components of a systematic approach based on agency policy this does not meet the definition of "robust". The component that is deficient, pertains to the first item in a systematic approach: There is no initial assessment available for review (the establishment reopened in April of 2012 with new owners, and they just carried over the previous program): 1- There was no information that could be provided in lieu of an initial assessment from current live animal employees or management. 2- The plant added a double inverting knock box for kosher slaughter, but no information is available on the assessment or operation of the equipment. Further more:

There have been 4 Humane Handling NR's written since September 1, 2013, including the following:

NR TTA031309311N1 issued on September 13, 2013 for leaving two consecutive animals upside down in the knock box for an extended period of time putting the animals in respiratory distress.

NR TTA4912094213N1 issued on September 13, 2013 due to animal which was too small to be properly restrained in the knock box which then caused the operator to improperly knock the animal and then taking approximately two minutes to properly stun the animal. This is a similar situation to what occurred on October 10, 2013.

NR TTA0310094818N1 issued on September 17, 2013 due to an animal being injured when the lift on the knock box broke, causing cuts to the jaw of the animal.

During the incident today, the plant allowed an animal that was too small to be properly restrained in the chin restraint on the knock box. The plant elected to use a hand held captive bolt to knock this animal. The first attempt was unsuccessful and it took approximately 2 minutes before the animal could be properly rendered unconscious. This is a similar circumstance to the incident documented in NR TTA4912094213N1 issued on September 13, 2013.

This evaluation supports suspending the assignment of inspectors instead of issuing a notice of intended enforcement action.

Decision

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 9 CFR 500.3(b). The suspension will remain in effect until you provide adequate written corrective and preventive measures to assure that all livestock at your facility will be handled in a humane manner during slaughter.

If you choose to submit written corrective and preventive measures your 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, along with a documentation record.

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. Please be advised that you have the right to appeal this matter. If you wish to appeal you should contact:

Dr. Keith Gilmore
Executive Associate for Regulatory Operations
Neil Smith Federal Building
210 Walnut St Rm 923
Des Moines, IA

Phone: 515-727-8970
Blackberry: 785-766-9830

In addition, you may also request a hearing regarding this determination pursuant to FSIS Rules of Practice, 9CFR 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:

Director
Evaluation and Enforcement Division
Office of Program Evaluation, Enforcement, and Review
Food Safety and Inspection Service
United States Department of Agriculture
Patriots Plaza III, 8th Floor, Cubicle 93
355 E Street, SW
Washington, DC 20024-3221
Telephone No: 202-418-8872
Fax number: (202) 245-5097

We urge your cooperation and voluntary compliance. Please direct any questions to the Des Moines District Office 515-727-8960.

Sincerely,


Dr. Dawn Sprouls
District Manger
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Des Moines District