



Field
Operations

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

April 18, 2013

Signed Original sent via UPS Priority
Signed copy Hand Delivered

Premium Iowa Pork
Mr. (b) (6)
108 First Ave South
Hospers, IA 51238

Notice of Intended Enforcement

Dear Mr. (b) (6)

This letter confirms verbal notification given to you, by (b) (7)(C) Des Moines District, Food Safety and Inspection Service (FSIS) on April 18, 2013, at approximately 0700 hours, of our decision to issue a Notice of Intended Enforcement (NOIE) for slaughter operations at your firm, Premium Iowa Pork, Est. M21069, Hospers, Iowa. 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 April 17, 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 approximately 1626 hours on April 17, 2013, (b) (7)(C) stopped stunning operations at Est. M21069 due to the following observations:

- 1) Between approximately 1620 to 1625 hours on April 17, 2013, and while conducting HATS verification activity on stunning operations, the following non-compliances were observed: two hogs were observed to display dorsal neck flexion shortly after sticking for bleeding. Aside from a positive palpebral reflex on the right eye area of the second hog, no other signs of sensibility were observed. The two hogs were immediately knocked by plant personnel (b) (7)(C) then notified (b) (6) and told him corrective action was needed to ensure effective stunning. Stunning was stopped and (b) (6) switched out the stun wands.
- 2) At approximately 1626 hours, following the changing of stun wands and resumption of stunning operations, (b) (7)(C) observed a hog dorsal flex its neck, display righting reflex behaviour and tongue rolling while breathing, shortly after being stuck for exsanguination. (b) (7)(C) notified (b) (6) who was standing nearby (b) (7)(C) pointed out the hog and told Mr. (b) (6) that he was taking a regulatory control action and will be stopping stunning operations. The hog was subsequently knocked by plant personnel (b) (7)(C) then informed Mr. (b) (6) that stunning operations were not in compliance and stunning operations were stopped until further notice. He also informed Mr. (b) (6) that he would be contacting the District Office about the observed non-compliance (b) (7)(C) placed USDA Reject tag #B38934476 on the stun wands/box. (b) (7)(C) subsequently informed the (b) (6) of the non-compliance while he was on his way to the USDA office to contact the District Office DVMS and FLS.
- 3) At approximately 1715 hours (b) (7)(C) met with (b) (6) and (b) (6) (b) (6) in the USDA office. He discussed further his observations and informed them of the decision not to allow any further stunning operations to take place until the stunning non-compliances were addressed in writing and effective corrective actions were in place. (b) (7)(C) also informed the management team that stunning operations would not resume until he obtained additional policy guidance from 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.

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). This decision was based in part on your development and implementation of a systematic approach for the humane handling of livestock for slaughter at this establishment and on the relative rarity of the occurrence of this type of incident at this establishment. Additionally, the training of your employees in humane handling and humane slaughter methods along with various improvements in your animal handling practices support a commitment to animal welfare at this establishment. 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 the District Office: 515-727-8960, or (b) (7)(C) at 515-727 (b) (7)(C)

Sincerely,



Dr. Dawn Sprouls
District Manger
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Des Moines District