



March 29, 2022

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Mr. John Beasley, Plant Manager
JBS Plainwell, Inc.
Est. M562M
11 11th Street
Plainwell, MI 49080

NOTICE OF SUSPENSION

Dear Mr. Beasley:

This letter confirms verbal notification provided to you by Dr. Donald Fickey, District Manager, on March 29, 2022, at approximately 1050 hours EDT, of the Food Safety and Inspection Service's (FSIS) decision to withhold the marks of inspection and suspend the assignment of inspectors from your slaughter process at JBS Plainwell, Inc., establishment M562M, located at 11 11th Street in Plainwell, Michigan. This action is based on your establishment's failure to effectively implement humane methods of slaughtering and handling animals in a manner that complies with the requirements prescribed by the Federal Meat Inspection Act (FMIA) and the Humane Methods of Slaughter Act of 1978 (HMSA). Your establishment is in violation of Title 9 of the Code of Federal Regulations (9 CFR), Sections 313.1(a) and 313.2(a). The Rules of Practice, 9 CFR 500.3(b), specify that FSIS may issue a suspension without providing prior notification if an establishment is observed to be handling or slaughtering animals inhumanely.

Background and Authority

The Federal Meat Inspection Act, 21 U.S.C. 603 Sec. 3 (b), states, "*for the purpose of preventing the inhumane slaughtering of livestock, the Secretary shall cause to be made, by inspectors appointed for that purpose, an examination and inspection of the method by which cattle, sheep, swine, goats, horses, mules, or other equines are slaughtered and handled in connection with slaughter in the slaughtering establishments inspected under this Act. The Secretary may refuse to provide inspection to a new slaughtering establishment or may cause inspection to be temporarily suspended at a slaughtering establishment if the Secretary finds that any cattle, sheep, swine, goats, horses, mules, or other equines have been slaughtered or handled in connection with slaughter at such establishment by any method not in accordance with Sections 1901 to 1906 of Title 7 until the establishment furnishes assurances satisfactory to the Secretary that all slaughtering and handling in connection with slaughter of livestock shall be in accordance with such a method.*" In addition, under prohibited acts 21 U.S.C. 610 sec 10 (b), "*No person, establishment or corporation shall, with the respect to any cattle, sheep, swine, goats, horses, mules, and other equines, or any carcasses, parts of carcasses, meat or meat food products of any such animals slaughter or handle in connection with slaughter any such animals in any manner not in accordance with sections 1901 to 1906 of Title 7.*"

The Humane Methods of Slaughter Act, 7 USC 1901, states, "*The Congress finds that the use of humane methods in the slaughter of livestock prevents needless suffering; results in safer and better working*

conditions for persons engaged in the slaughtering industry; brings about improvement of products and economies in slaughtering operations; and produces other benefits for producers, processors, and consumers which tend to expedite an orderly flow of livestock and livestock products in interstate and foreign commerce. It is the policy of the United States that the slaughtering of livestock and the handling of livestock in connection with slaughter shall be carried out only by humane methods.”

The Humane Methods of Slaughter Act, 7 USC 1902, states, “*No method of slaughtering or handling in connection with slaughtering shall be deemed to comply with the public policy of the United States unless it is humane.*” When an egregious situation exists, FSIS can refuse to render inspection and indefinitely withdraw inspection from an establishment provided the establishment is afforded the right to an administrative hearing.

Under the authority of the above Acts, FSIS has prescribed rules and regulations for establishments producing meat and poultry products, including the requirements pertaining to the humane slaughter of livestock in 9 CFR 313. FSIS has also developed Rules of Practice regarding enforcement, which can be found in 9 CFR 500. The Rules of Practice describe the types of enforcement action that FSIS may take to include a withholding action and/or suspension, with or without prior notification, and for filing a complaint to withdraw a Grant of Federal Inspection.

Findings/Basis for Action

On March 29, 2022, at approximately 0955 hours, the Supervisory Public Health Veterinarian (SPHV) was alerted to the knock box area and observed a steer entrapped immediately in front of the entrance to the knock box. The animal was contorted and entrapped in left lateral recumbency, with the head and neck bent in such a manner that the head and neck were pinned beneath the left shoulder by the weight of the animal. The animal was observed to be alive and breathing rapidly at this time. The SPHV placed U.S. Rejected tag B45949476 and verbally informed management the observations constituted noncompliance. The Consumer Safety Inspector (CSI) remained in the area to observe the employees’ continued attempts to extract and/or humanely euthanize the animal. At approximately 1009 hours, the SPHV returned to the area where the animal was observed to be in the same position. Both the CSI and SPHV confirmed the animal had died. The SPHV informed establishment management that the slaughter process would remain under regulatory control until further notice. A chain was placed around the limbs of the deceased animal. It was dragged from the location and a security stun with a handheld captive bolt device was administered.

The entrapment of the animal is noncompliant with the regulatory requirements of 9 CFR 313.1(a) and 313.2(a) which require facilities to be designed in a manner to prevent injury to livestock and that livestock are driven in a manner to minimize excitement and discomfort, respectively. Because the animal was subject to severe injury and/or harm, dying as a result of the entrapment, this noncompliance is considered egregious and a violation of the humane handling requirements as prescribed by 21 U.S.C. 603, Section 3 (b) of the FMIA, and 7 U.S.C. 1901 and 1902 of the HMSA of 1978.

You have failed to meet the requirements of 9 CFR 313.1(a) which states, “*Livestock pens, driveways and ramps shall be maintained in good repair. They shall be free from sharp or protruding objects which may, in the opinion of the inspector, cause injury or pain to the animals. Loose boards, splintered or broken planking, and unnecessary openings where the head, feet, or legs of an animal may be injured shall be repaired,*” and 9 CFR 313.2(a) which states in part, “*Driving of livestock from the unloading ramps to the holding pens and from the holding pens to the stunning area shall be done with a minimum of excitement and discomfort to the animals.*”

Summary and Conclusion

On September 9, 2004, FSIS published "*Humane Handling and Slaughter Requirements and the Merits of a Systematic Approach to Meet Such Requirements*" in the Federal Register Notice (54 Fed. Reg. 54625). On September 24, 2020, FSIS released FSIS Directive 6900.2 Revision 3, entitled, "*Humane Handling and Slaughter of Livestock*." Additionally, on October 23, 2013, FSIS introduced new guidance, titled "*FSIS Compliance Guide for a Systematic Approach to the Humane Handling of Livestock*." Within the guidance material is information intended to better ensure the humane treatment of livestock presented for slaughter. The guidance material provides a set of practices designed to minimize excitement, discomfort, and accidental injury regarding the humane handling of livestock to include the four components of a robust systematic approach to humane handling.

In cases where an egregious inhumane handling incident is observed by FSIS inspection program personnel (IPP), the Agency provides for regulatory discretion in the decision of the type of enforcement action issued if an establishment maintains a written systematic approach that meets the criteria for robustness. Although you maintain a written humane handling program, it does not meet the guidelines for robustness. Regulatory discretion is not a consideration at this time and a suspension is warranted.

Please provide this office with a written response to this NOS with corrective actions and preventive measure to restore and maintain regulatory compliance. We will determine if any further actions are necessary based on your response. The corrective actions in your response should address the following:

1. Identify the specific reason(s) why the events described occurred.
2. Describe the specific action(s) that will be implemented to eliminate the cause of the incident and prevent future recurrences.
3. Describe the specific future monitoring activity or activities that your establishment will employ to ensure the actions implemented are effective.
4. Provide any supporting documentation and records maintained and associated with your proposed corrective actions and preventive measures.

Your proposed corrective actions and preventive measures should include any times and/or dates for completion of these proposed activities.

You have the right to appeal this matter. Your appeal should be addressed to the following:

Melissa Moore
Executive Associate for Regulatory Operations
Office of Field Operations
Food Safety and Inspection Service, USDA
1400 Independence Ave. SW
South Building Room 3159
Washington, DC 20250
Cell: (202) 450-0330
melissa.moore1@usda.gov

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, Branch Chief
Enforcement Operations Branch
Office of Investigation, Enforcement and Audit
Food Safety and Inspection Service
United States Department of Agriculture
Stop Code 3753, PP3, Cubicle 9-235-A
1400 Independence Ave. SW
Washington, DC 20250
Voice: (202) 418-8872
Fax: (202) 245-5097

If you have questions regarding this matter, you may contact (b) (6)
(b) (6) : (b) (6) or you may
contact this office at (630) 620-7474 or by fax at (630) 620-7599.

Sincerely,

DONALD FICKEY
Digitally signed by
DONALD FICKEY
Date 2022.03.29
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Dr. Donald B. Fickey
District Manager
Chicago District