



September 1, 2020

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Mr. Eric Winkle, Plant Manager
Bob Evans Farms Inc.
Est. M6785
640 Birch Road
Xenia, OH 45385

LETTER OF DEFERRAL

Dear Mr. Winkle:

This letter serves as official notification of the Food Safety and Inspection Service's (FSIS) decision to place the Notice of Intended Enforcement (NOIE), dated August 25, 2020, into deferral. This action is based on the review, analysis, and acceptance of your proposed corrective actions and preventive measures submitted to the FSIS Chicago District Office on August 28, 2020, and September 1, 2020.

Background

On August 25, 2020, Deputy District Manager Dr. Tamara Davis verbally notified you of the Food Safety and Inspection Service's (FSIS) intent to withhold the marks of inspection and suspend the assignment of inspectors from your slaughter process at Bob Evans Farms Inc., Establishment M6785, located at 640 Birch Road, Xenia, OH 45385. This action was based on your establishment's failure to effectively implement humane methods of slaughtering and handling animals in a manner that complies with the regulatory requirements prescribed by the Federal Meat Inspection Act (FMIA) and the Humane Methods of Slaughter Act (HMSA). Your establishment was observed to be in violation of Title 9 of the Code of Federal Regulations (9 CFR), Section 313.15(a)(3). The Rules of Practice, 9 CFR 500.3(b), specify that FSIS may issue a suspension without providing prior notification if it an establishment is handling or slaughtering animals inhumanely.

Because your establishment maintains a written systematic approach for the humane handling of livestock consistent with the guidelines for robustness and you were implementing the program as written, regulatory discretion was exercised and the decision was to issue an NOIE in lieu of a suspension.

Within the NOIE, the FSIS Chicago District Office requested that you submit a written response to this office within three (3) working days from the date of your receipt of the NOIE with corrective actions to address the following:

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

Corrective Actions

On August 28, 2020, the FSIS Chicago District Office received your written response. You conducted an investigation and discovered the root cause for this incident was due to the fact the bolt on the device used for stunning was one-inch (1") shorter than the 5½" standard that has been utilized in the other captive bolt devices.

To restore and maintain regulatory compliance with 9 CFR 313.15(a)(3) as required, you proposed the following corrective actions:

- The equipment that failed to meet the minimum bolt length requirement has been removed from service.
- All captive bolt devices that remain in service have been confirmed to have the 5½" length bolt.
- All newly purchased captive bolt devices will be inspected to ensure it meets the minimum bolt length of 5½" and will be tested to verify effectiveness before being placed into service. This will be accomplished by testing the captive bolt on the removed heads of at least ten (10) sows. The skull cap will be removed after the stun and a visual inspection will be conducted to assess the effectiveness. Documentation requirements of the new captive bolt effectiveness test will be annotated in the captive bolt device SOP.
- The current captive bolt SOP has been updated to reflect the new inspection and verification requirements of any new captive bolt devices.
- Retraining for all designated captive bolt operators was conducted and documented within 24 hours of the incident.
- Verification monitoring is conducted according to the captive bolt SOP and will confirm each sow that has been effectively rendered unconscious with a captive bolt device will remain unconscious throughout shackling, hoisting, and sticking. The results will be documented on the current captive bolt usage form.

You provided each of the referenced documents for review.

After a review and analysis of your proposed corrective actions, a District Veterinary Medical Specialist (DVMS) initiated a phone call with your representative to request clarifications of the proposed corrective actions. On September 1, 2020, the information requested was provided and the FSIS Chicago District Office has concluded these proposed measures, provided they are successfully implemented, will serve to adequately address the regulatory issues identified within the NOIE.

Summary and Conclusion

This letter serves as written notification that FSIS is deferring the decision to suspend the assignment of inspectors from the slaughter process at your establishment. The deferral of this decision will remain in effect until your proposed corrective actions are demonstrated to have been successfully implemented on a consistent and continuous basis. The corrective actions you proposed will be subject to verification by FSIS inspection program personnel (IPP) to ensure the implementation is effective ensure no recurrence of events related to your establishment's obligation for compliance with the FMIA, HMSA, and all applicable FSIS regulations.

FSIS is committed to monitoring establishments' operations to verify compliance with the regulatory requirements. To assist in those verification activities, FSIS has developed a Verification Plan Report (VPR) based on your proposed corrective actions. The VPR will be completed by FSIS IPP during the deferral period as a means to document the implementation of your corrective actions in conjunction with

the conditions of this deferral. The VPR identifies specific elements of your corrective actions and the associated regulatory requirements. These will be subject to verification until FSIS has made the determination that your establishment has effectively implemented these corrective actions. Additionally, during the deferral period, Humane Handling Verification Visits (HHVV) will be conducted at 30-day intervals to assess your progress in implementing the corrective actions as proposed. FSIS verification includes the expectation that you meet any time associated commitments identified within your proposal. Should your establishment fail to operate in accordance with these commitments or fail to comply with the regulatory requirements, FSIS will take immediate and appropriate regulatory control actions.

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

Sincerely,

TAMARA

DAVIS

Dr. Tamara Davis
Deputy District Manager
FSIS Chicago District

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