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September 6, 2013

Patricia Graham
Plant Owner
Establishment M27435
Graham's Organic Meats, LLC
3653 East Weidman
Rosebush, MI 48878

NOTICE OF SUSPENSION HELD IN ABEYANCE

Dear Ms. Graham:

This letter confirms the September 6, 2013, verbal notification provided to you by (b) (7)(C) of the Food Safety and Inspection Service's (FSIS) decision to place the suspension of the assignment of inspection program personnel for the slaughter process in abeyance at your establishment, located at the above address. This decision is based upon your responses to the Chicago District Office on September 5 and 6, 2013.

Background

On September 5, 2013, FSIS issued a Notice of Suspension (NOS) letter to your establishment. That letter confirmed verbal notification from Dr. Tamara Mayberry-Davis, Deputy District Manager (DDM), on September 5, 2013, of the Food Safety and Inspection Service's (FSIS) decision to suspend slaughter operations at your establishment. This action was taken because of your failure to comply with the Humane Methods of Slaughter Act of 1978 (HMSA) (Section 1901, 1902, and 1906) and Title 9 of the Code of Federal Regulations (9 CFR) 500.3 (b), for your establishment's inability or unwillingness to effectively implement humane methods of slaughtering and handling of animals in a manner that complies with FSIS regulatory requirements.

Specifically, (b) (7)(C) and (b) (7)(C) observed a beef cow routinely stunned with a captive bolt gun with a single shot. The animal went down in the knock box. After approximately five minutes, the knock box was opened and the animal was shackled and hoisted. (b) (7)(C) and (b) (7)(C) heard the animal vocalize with a bellow and observed that the stunner operator had just incised the animal's neck in preparation for bleeding. They saw that the cow was bleeding from the incision. The cow bellowed once more. The stunner operator walked unhurriedly to a stand where he reloaded the captive bolt gun. After approximately one minute, the operator shot the cow. At this time, (b) (7)(C) and (b) (7)(C) noted that the animal was continuing to breathe in a rhythmic manner. The stunner operator walked back to the stand where he again, reloaded the captive bolt gun then walked back to the cow and applied a third shot of the captive bolt gun. Following this shot, the beef animal exhibited no further signs of consciousness. (b) (7)(C) applied US Reject tag number # B23 371465 to the knock box.

This event is noncompliant with 9 CFR 313.15 (a) (3) which states, "Immediately after the stunning blow is delivered the animals shall be in a state of complete unconsciousness and remain in this condition throughout shackling, sticking and bleeding;" and 9 CFR 313.15 (b) (1) (iv) which states, "The stunning operation is an exacting procedure and requires a well-trained and experienced operator. He must be able to accurately place the stunning instrument to produce immediate unconsciousness. He must use the correct detonating charge with regard to kind, breed, size, age, and sex of the animal to produce the desired results."

A beef cow regained consciousness after being stunned, shackled, hoisted, and cut. Allowing this animal to regain consciousness after stunning was egregiously inhumane.

In the NOS, FSIS requested the following information in order for slaughter operations to resume at your establishment.

1. Identify the specific reason(s) why the event occurred.
2. Describe the specific actions that will be taken to eliminate the cause of the incident and prevent future recurrences.
3. Describe the future monitoring activities that your establishment will use to ensure that the actions are effective.

On September 5, 2013, at 1431 hours Eastern Daylight Savings Time (EDT), this office received a response to the NOS, via electronic mail addressed to (b) (7)(C) Dr. Mayberry-Davis, DDM; and myself. The response was in the form of a corrective actions document and a spreadsheet titled, "Stunning Observations."

Your corrective actions stated that the exact cause of the incident was difficult to pinpoint due to the fact that the stunning appeared to be effective. You normally have two employees working in that area; however, you only had one employee working so the hoisting and bleeding process may not have been conducted soon enough. You stated that you will train your employees to recognize all signs of consciousness in "Humane Handling of Livestock" by Temple Grandin. In the future, you will hoist and bleed the animal quicker, and if there is any doubt, stun again. (b) (6) or plant management will monitor the stunning of two animals of each available species during each kill day for the next two months. The attached "Stunning Observations" log will document the observation of stunning procedures with the lot number and whether the results were acceptable or unacceptable.

On September 5, 2013, at approximately 1515 hours EDT, Dr. Mayberry-Davis, DDM, contacted you by telephone. She asked you to clarify your planned stunning observations. You stated that the observations will encompass the time from stunning throughout bleeding; and that the animals will not be stunned until they are ready for bleeding. Dr. Mayberry-Davis described a concern that there was no location to document corrective actions if necessary. Dr. Mayberry-Davis also requested that you provide evidence of the training and materials.

At 1600 hours EDT, this office received a revised response to the NOS, via electronic mail addressed to (b) (7)(C) Dr. Mayberry-Davis, DDM; and myself. The revised corrective action document stated that each trained individual will sign and date a training form. Additionally, you clarified that animals will not be stunned until you are ready for hoisting; and if there is any doubt of consciousness, you will stun the animal again. You revised the Stunning Observation log to incorporate a column to document corrective actions.

At approximately 1615 EDT, Dr. Mayberry-Davis, DDM; (b) (7)(C) and (b) (7)(C) contacted you via telephone conference.

(b) (7)(C) explained that with the understanding of your plan to monitor the animals from stunning throughout the entire time the animal is bled and dead; that once this office receives the training materials and training log, there is no reason an abeyance cannot be initiated. You informed this office that you plan to conduct the training in the morning and would like to begin slaughter thereafter. Arrangements were made regarding submission of the training materials in the morning.

On September 6, 2013, at 0705 hours EDT, this office received the final attachments of your response to the NOS, via electronic mail addressed to (b) (7)(C). The attachments were comprised of a scanned training log stating, "I have read and understand the literature given to me in regards to proper stunning and handling of livestock." The log was signed and dated by three individuals. The second attachment was a document by Temple Grandin titled, "How to Determine Insensibility."

Your proffered corrective and preventive measures were found to adequately address FSIS' concerns. At 0715 hours EDT, (b) (7)(C) contacted you by telephone and verbally informed you of the abeyance of the suspension of slaughter operations at your establishment.

This letter serves as written notification that FSIS is placing the suspension enforcement action at your facility in abeyance. The abeyance of the suspension enforcement action for your firm's slaughter operations will remain in effect until such time as your company has demonstrated effective implementation of its proposed corrective and preventive measures, and that the corrective and preventive measures, as proposed, have been verified by FSIS to ensure no repetition of noncompliance related to your firm's responsibilities for the Humane Methods of Slaughter Act and FSIS regulations.

FSIS is committed to monitoring establishments' operations to verify that they are fully complying with all regulatory requirements. As a result of this commitment you will find, enclosed with this letter, a verification plan which will be used by inspection personnel to verify your firm's regulatory compliance with the conditions of this Notice of Suspension Held in Abeyance. This specific Verification Plan is designed to verify that your establishment fully implements all corrective measures proffered by your firm on September 5 and 6, 2013, and that these actions are effective in assuring ongoing regulatory compliance. It identifies specific elements of your corrective measures and the relevant regulatory requirements that Inspection Program Personnel will verify until such time as FSIS determines that your company has effectively implemented its proposed corrective and preventive measures.

You are reminded that as an operator of a federally inspected facility, you are expected to fully comply with all FSIS regulations and to take appropriate corrective actions to prevent the inhumane treatment and slaughter of livestock. The Humane Methods of Slaughter Act of 1978 (Section 1901, 1902, and 1906) states that the slaughtering and handling of livestock are to be carried out only by humane methods. 9 CFR 313 contains the FSIS regulatory requirements that were promulgated based on the HMSA and the Federal Meat Inspection Act (FMIA). It is fully expected that you comply with the HMSA, FMIA, and the regulatory requirements of Part 313, and that you carry out each of the corrective and preventive actions you proffered in response to the egregious incident. Failure to comply could result in the reinstatement of suspension at your facility or other appropriate administrative or legal actions. We urge your company's cooperation and voluntary compliance.

Please also be advised that your company has the right to appeal this matter. If your firm wishes to appeal this determination, it should contact:

Dr. Keith Gilmore
Executive Associate for Regulatory Operations
USDA, FSIS, OFO
210 Walnut St. Room 923
Des Moines, IA 50309
Telephone: (515) 727-8970 or (785) 766-9830

If you have any questions regarding this matter, please feel free to contact (b) (7)(C) at (616) 304-(b) (7)(C) (b) (7)(C) at (608) 630-(b) (7)(C) (b) (7)(C) at (630) 620-(b) (7)(C) or you may contact this office at 630-620-7474.

Sincerely,

Lamara M. Davis, DVM / FOR

Paul V. Wolseley
District Manager
Chicago District