



United States
Department of
Agriculture

Food Safety
and Inspection
Service

Office
of Field
Operations

Raleigh District Office
6020 Six Forks Office
Raleigh, NC 27609

FACSIMILE/ COURIER

May 15, 2013

Mr. Jerry Matkins
President/General Manager
Est. # 07975--M
Matkins Meat Processors, Inc.
9683 Kerr's Chapel Rd.
Gibsonville, NC 27240

NOTICE OF REINSTATEMENT OF SUSPENSION

Dear Mr. Matkins,

This letter confirms the verbal notification you were given on May 14, 2013 by the onsite Food Safety and Inspection Service (FSIS) personnel of the suspension of the assignment of inspectors for slaughter operations at Matkins Meat Processors, Inc., Est. 07975--M, herein after referred to as "your establishment". This action was initiated, in accordance with Title 9 of the Code of Federal Regulations (CFR), part 500.3 (b), after FSIS determined that your establishment failed to handle animals humanely.

Background/Authority

The Federal Meat Inspection Act (FMIA) (21 U.S.C 603 et seq.) provides that 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 assurance satisfactory to the Secretary that all slaughtering and handling in connection with slaughter of livestock shall be in accordance with such a method.

The Humane Methods of Slaughter Act of 1978 (7 U.S.C 1901 et seq.) provides that 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 therefore declared to be 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.

Findings/Basis for Suspension

On May 14, 2013 at approximately 0735am, while performing slaughter duties and verifying Category VIII (Stunning Effectiveness), inspection personnel observed the stun of a bovine with a rifle. According to (b) (7)(C) the shot was fired and the cow did not go down. There was no vocalization from the cow. Approximately 30 seconds later, a second shot was placed and the cow immediately went down unconscious as verified by inspection personnel. On observation of the head the inspectors noted the first shot to be approximately 1.5 inches off center to the right and 2 inches high from the center. The second shot was about 1 cm right of center of pole. The weapon used was a .17 HMR caliber rifle gun. According to the inspector the reason for use of this rifle instead of the captive bolt stunner, as stated in the establishment's written stunning procedure, was due to the establishment having the wrong caliber bullet for the captive bolt gun (.22 caliber vs. .25 caliber bullets).

This is a violation of section 313.16 (a)(1) The firearms shall be employed in the delivery of a bullet or projectile into the animal in accordance with this section so as to produce immediate unconsciousness in the animal by a single shot before it is shackled, hoisted, thrown, cast, or cut. The animal shall be shot in such a manner that they will be rendered unconscious with a minimum of excitement and discomfort; and 313.16 (a)(3) Immediately after the firearm is discharged and the projectile is delivered, the animal shall be in a state of complete unconsciousness and remain in this condition throughout shackling, sticking and bleeding.

This was deemed an egregious act because the animal was left conscious after the first stun attempt. Additionally, the plant normally stuns animals (cattle) of this size with a captive bolt but it was not in use today because the necessary caliber ammunition was not available for the captive bolt. Stun mishaps in which animals are left conscious are regarded by the Agency as examples of undo pain and suffering for the animal and as such warrant the initiation of a suspension action as guided by FSIS Directive 6900.2, Rev.2, Humane Handling and Slaughter of Livestock, dated 8/15/11. Regulatory action was taken and a US Reject Tag# B25822435 placed on the knock box. Plant owner, Mr. Jerry Matkins was verbally notified of the Notice of Suspension for the egregious humane handling violation.

The assignment of inspectors for slaughter operations at your establishment is being suspended for the following reasons: 1) the egregious nature of the noncompliance described herein, 2) your establishment does not have a comprehensive or "robust" systematic approach to its humane handling program as referenced in the aforementioned directive, 6900.2 Rev. 2, and 3) your history of noncompliance with humane handling requirements. The suspension action will remain in effect until such time as you provide the FSIS Raleigh District Office with adequate written assurances including corrective actions and further planned preventive measures to assure that livestock at your

establishment are slaughtered humanely. In order to resume inspected operations, you must submit corrective actions to my attention at the Raleigh District Office. These corrective actions should include at a minimum the following:

1. Identify the assessment process used to determine the nature and cause of the noncompliance.
2. Identify what the assessment revealed as the likely cause of the system failure.
3. Describe the specific actions that will be taken to eliminate the cause of the failures.
4. Describe future monitoring activities you will use to ensure that changes are implemented and are effective.

Violation History

To date our records show that within the past 3 months FSIS has documented the following failure of your establishment to comply with humane slaughter and handling requirements:

- March 18, 2013, noncompliance record documenting the establishment's failure to slaughter and handle animals humanely; regarding unstable flooring and protruding bolts in barn pens see NR # YCA2610031718N/1.
- March 26, 2013, noncompliance record documenting the establishment's failure to slaughter and handle animals humanely; regarding animals not being rendered unconscious on the first shot see NR # YCA5912034426N/1.
- March 28, 2013, noncompliance record documenting the establishment's failure to slaughter and handle animals humanely; regarding animals not being rendered unconscious on the first shot see NR # YCA1009033429N/1.
- April 04, 2013, suspension documented for the establishment's failure to slaughter and handle animals humanely.
- April 12, 2013, noncompliance record documenting the establishment's failure to slaughter and handle animals humanely; regarding animals not being rendered unconscious on the first shot see NR # YCA061045315N/1.
- April 23, 2013, noncompliance record documenting the establishment's failure to slaughter and handle animals humanely; regarding animals not being rendered unconscious on the first shot see NR # YCA1421044524N/1.

The above listed occurrences should serve to remind you of your establishment's noncompliance dealing with the humane handling of your livestock. You are reminded that, as an operator of a federally inspected plant, you are expected to comply with FSIS regulations and to take appropriate corrective actions to prevent inhumane handling of livestock at your establishment. Please be advised that your failure to respond adequately to these issues may result in our initiating action to withdraw inspection from your establishment. Please also be advised that you have the right to appeal this matter.

In accordance with 9 CFR 500.5 (a) (5), you may appeal this action by contacting the:

Executive Associate for Regulatory Operations
USDA/FSIS/OFO
Room 3157, South Agriculture Building
1400 Independence Ave., SW
Washington, DC 20250-3700
Telephone: 202-720-3697
Facsimile: 202-690-3287

In addition you may also request a hearing regarding this determination pursuant to FSIS' Rules of Practice (9 CFR 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
Enforcement and Litigation Division
USDA, FSIS, OIEA (Office of Investigation, Enforcement & Audit)
Patriot Plaza III, 8th Floor, Cubicle 8-243A
355 E. Street, SW
Washington, DC 20024-3221
Telephone: 202-418-8872
Facsimile: 202-245-5097

It is our hope that this matter can be resolved quickly. If you have any questions, please call this office at 1-800-662-7608. We urge your cooperation and voluntary compliance.

Sincerely,



Steven Lalicker
District Manager
Raleigh, NC

SL/bapc

cc:

M. Ramzan, DDM, RDO, OFO (via email)

M. Khan, DDM, RDO, OFO (via email)

T. Bryant, DDM, RDO, OFO (via email)

(b) (7)(C) RDO, OFO (via email)

(b) (7)(C) RDO, OFO (via email)

(b) (7)(C) Est. 07975--M (via email)

(b) (7)(C) NCDA & CS MPIO (via email)

(b) (7)(C) NCDA & CS, MPIO (via email)

(b) (7)(C) NCDA & CS, MPIO (via email)

S. Safian, Director ELD, OIEA (via email)

A. Tawadrous, EARO, OFO (via email)

Quarterly Enforcement Report (via email)

District Office Establishment File (Est. # 07975--M)