



United States Department of Agriculture

Food Safety and
Inspection Service

Raleigh District Office

6020 Six Forks Road
Raleigh, NC. 27609
Voice: 919-844-8400
Fax: 1-844-839-6359

August 16, 2021

EMAIL

Ms. Kristi Mitchell, Owner
M. L. Mitchell and Son Meat Processing, Est. M46822
401 Mitchell St.
Walnut Cove, North Carolina 27052

NOTICE OF SUSPENSION

Dear Ms. Mitchell,

This letter confirms the verbal notification given on August 16, 2021, at approximately 1120 hours, by the Food Safety and Inspection Service (FSIS) Inspection Program Personnel (IPP) of the suspension of the assignment of inspectors for slaughter operations at M. L. Mitchell and Son Meat Processing, Est. M46822, herein after referred to as “your establishment.” This action was initiated in accordance with Title 9 of the Code of Federal Regulations (9 CFR) 500.3, after FSIS determined that your establishment failed to slaughter and handle animals humanely.

Background/Authority

The Federal Meat Inspection Act (FMIA) (Title 21 of the United States Code {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 methods 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 slaughtering 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 establishments 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.

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

At approximately 1040 hours on Monday, August 16, 2021, at M. L. Mitchell and Son Meat Processing, Est. M46822, IPP identified an egregious humane handling non-compliance in which employees rendered multiple ineffective stunning attempts to a goat before cutting the goat's neck to allow it to bleed out. The goat was loaded into the knock box where Employee 1 attempted to stun it using a .22 Magnum rifle. The stun attempt was unsuccessful as the goat remained standing and loudly vocalizing. Employee 1 handed the rifle to Employee 2 who had a better angle for the shot. Employee 2 immediately applied a second unsuccessful stun and the goat remained standing and vocalizing loudly. Employee 1 then entered the knock box and used a knife to cut the goat's neck, causing the goat to bleed out. IPP applied US Retain/Reject Tag #B34398021 to the knock box to prevent further slaughter of livestock. The IPP notified establishment personnel of the suspension of the assignment of inspection at approximately 1120 hours.

This incident represents a violation of 9 CFR 313.16 (a)(1) which states, in part, that the firearm should be used to produce immediate unconsciousness in the animals with a single shot before they are shackled, hoisted, thrown, cast, or cut, and that the animals should be stunned in such a manner that they will be rendered unconscious with a minimum of excitement and discomfort. This incident is considered egregious because there were multiple attempts to stun the animal in the absence of an immediate corrective action and the employee made a cut on a conscious animal. The establishment does have a documented systematic approach to humane handling which is considered robust; however, the program was not being implemented at the time of the incident, so a suspension is being initiated.

The suspension action will remain in effect until you provide the 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 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 noncompliances.
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 the future monitoring activities you will use to ensure that changes are implemented and are effective.

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:

Sherry Johnson
Executive Associate for Regulatory Operations
Office of Field Operations
Food Safety and Inspection Service
United States Department of Agriculture
1400 Independence Avenue, SW
Room 3161, South Building
Washington, DC 20250
Phone: (202) 205-0001

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:

Scott C. Safian, Branch Chief
Enforcement Operations Branch
Office of Investigation, Enforcement and Audit
Food Safety and Inspection Service
Stop Code 3753, PP3, Cubicle 9-235-A
1400 Independence Avenue, SW
Washington, D.C. 20250
Voice: (202) 418-8872
Fax: (202) 245-5097

It is our hope that this matter can be resolved quickly. If you have any questions, you may call me at 919-208-2945 or contact me via email at todd.furey2@usda.gov. You may also contact Dr. Roger Murphy, Deputy District Manager, at 919-208-2947. We urge your cooperation and voluntary compliance.

Sincerely,

ROGER MURPHY
Digitally signed by
ROGER MURPHY
Date: 2021.08.16
15:22:27 -04'00'

Todd Furey
District Manager
Raleigh, NC

cc:

P. Bronstein, AA/FO

H. Sidrak, DAA/FO

S. Johnson, EARO/FO

P. Wolseley, EARO/FO

S. Safian, ELD/OIEA

L. Hortert, RD/CID/OIEA

R. Murphy, DDM/RDO/FO

M. Roling, DDM/RDO/FO

A. Thompson, DDM/RDO/FO



Quarterly Enforcement Report
Establishment File (Est. M46822)