



United States Department of Agriculture

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Food Safety and  
Inspection Service

October 8, 2021

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Office of Field  
Operations  
Des Moines District  
Office

John Roswech, Owner  
South 40 Farms, LLC  
9214 Highway 21  
Mott, ND 58846

Neal Smith Federal  
Building  
210 Walnut Street  
Room 985  
Des Moines, IA  
50309-2123

**NOTICE OF SUSPENSION**

Dear, Mr. Roswech:

Voice 515.727.8960  
Fax 515.727.8991

This letter confirms verbal notification by the Des Moines District Office, Food Safety and Inspection Service (FSIS) on October 7, 2021, of our decision to suspend the assignment of inspection program personnel (IPP) at Establishment 47494, South 40 Farms, LLC., in Mott ND, herein referred to as the/your establishment. This action is taken in accordance with the Rules of Practice, 9 CFR 500.3(b), which indicates that FSIS may take a withholding action or impose a suspension without providing an establishment prior notification if it is handling or slaughtering animals inhumanely such as occurred at your establishment on October 7, 2021.

**Background**

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 amenable species 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 the *Humane Methods of Slaughter Act* (HMSA) (72 Statute, 862; 7 U.S.C. 1901 to 1906) 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 methods.

Under the authorities of the Acts, FSIS has prescribed rules and regulations for the humane slaughtering of livestock, as contained in 9 CFR, Part 313, and the HMSA of 1978. FSIS has also developed Rules of Practice regarding enforcement prescribed in 9 CFR Part 500. The Rules of Practice describe the types of enforcement actions that

FSIS may take and include procedures for taking a withholding action and or suspension, with or without prior notification, as well as the procedures for filing a complaint to withdraw a Grant of Federal Inspection.

### **Findings/Basis for Action**

At approximately 1015 hours, while performing HATS Category VIII – Stunning Effectiveness, IPP observed the following noncompliance on a beef heifer:

The animal was put into the restrainer and the head catch. The first stun attempt with the handheld captive bolt device (HHCB) did not render the animal immediately unconscious. The animal vocalized and remained standing. The stunning operator immediately grabbed another HHCB, that was already loaded, and a second stun attempt was made but did not render the animal unconscious. IPP observed blinking of the eyes and the animal remained standing. A third stun attempt was again immediately performed after reloading the HHCB that rendered the animal unconscious and it dropped to the floor. A fourth stun was applied after the animal was down as a safety stun.

The restrainer was tagged immediately with U.S. Reject tag number B-45639489. Owner: Mr. John Roswech was present during the incident and was informed that the establishment had failed to meet the regulatory requirements of 9 CFR 313.15(a)(1), a Non-Compliance Record would be issued, and the District Office would be contacted for further guidance.

On post-mortem examination there is one hole directly within the eye/ear cross pattern. A second hole is an inch to the right and an inch above the first hole. Both of those holes penetrated the brain cavity. A third hole is approximately 5 inches directly below the first hole. A fourth hole is approximately 2 inches down and 3 inches to the right of the first hole. The last two holes penetrated approximately ½ an inch into the skull.

This is a violation of the FMIA (21 U.S.C.) 603, regulations 9 CFR 313.15(a)(1) and the HMSA of 1978.

### **Conclusion:**

The observations detailed above indicate an egregious violation of the humane handling requirements specified within the provisions of 21 U.S.C. 603, Section 3(b) of the FMIA, and 7 U.S.C. 1901 and 1902 of the HMSA of 1978 and the regulatory requirements outlined in 9 CFR 313.15(a)(1).

The establishment does not have a humane handling program that meets the four criteria as described in the Federal Register Notice of September 9, 2004. Based on the above findings, the Des Moines District Office has determined to suspend the

assignment of inspectors for your slaughter operations, as per the Rules of Practice 9 CFR 500.3(b).

The suspension of the assignment of inspectors will remain in effect until such time as you provide to this office adequate written corrective actions and preventive measures to assure that the handling and/or slaughter of animals will be done humanely and in accordance with the FMIA, HMSA, and the regulations promulgated therein.

You may provide this office written corrective and preventive measures concerning the NOS and we will determine further action, if any, based upon your response. Your written response should include:

1. An initial assessment of the incident, including determination of the cause.
2. Immediate corrective actions taken.
3. Preventive measures to prevent reoccurrence.
4. Any training of employees and materials used.
5. Type of monitoring activity for stunning, along with a documentation record.

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

You are reminded that as an operator of a federally inspected establishment, you are expected to comply with FSIS regulations, regarding the humane handling and slaughter of livestock. Please be advised that you have the right to appeal this matter. If you wish to appeal, you should contact:

Sherri N. Johnson  
Acting Executive Associate for Regulatory Operations  
Office of Field Operations  
Food Safety and Inspection Service  
United States Department of Agriculture  
1400 Independence Avenue, SW  
South Building, Room 1330A  
Washington, DC 20250  
[sherri.johnson@usda.gov](mailto:sherri.johnson@usda.gov)  
Phone number: 202-379-6196

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 8-235-A  
1400 Independence Avenue, SW  
Washington, DC 20250  
Phone number: 202-418-8872  
Fax number: 202-245-5097

We urge your cooperation and voluntary compliance. If you have questions regarding this matter, please feel free to contact the Des Moines District Office at 515-727-8960 or the District Veterinary Medical Specialist (DVMS), (b) (6)

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Sincerely,



Digitally signed by Todd C.  
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Date: 2021.10.08 13:31:39  
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Dawn Sprouls, DVM  
District Manager  
USDA FSIS OFO  
Des Moines District