



Food Safety and
Inspection Service

June 27, 2024

Office of Field
Operations
Des Moines
District Office

Electronic Mail on June 27, 2024

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

Otto's Meats. LLC
N5674 Adam's Street
Luxemburg, Wisconsin 54217
ottosmeat@gmail.com
920-845-2612

NOTICE OF SUSPENSION

Voice
515.727.8960
Fax 515.727.8991

Attention: Andrew Ratajczak, Owner

This letter serves as official notification by the Food Safety and Inspection Service (FSIS) of our decision to withhold the federal marks of inspection and suspend the assignment of Inspection Program Personnel (IPP) for all slaughter operations at establishment M1403, Otto's Meats, LLC, located at N5674 Adam's Street, Luxemburg, WI. This letter follows verbal notification of the suspension action, provided by (b) (6), Public Health Veterinarian, to Andrew Ratajczak, Owner at approximately 0935 June 27, 2024.

The decision to institute this enforcement action is in accordance with Title 9 of the Code of Federal Regulations (CFR), Rules of Practice 500.3(b), based on the determination that your establishment did not handle or slaughter animals humanely. The observed egregious inhumane handling incident demonstrates failure to comply with the Federal Meat Inspection Act (FMIA) (21 U.S.C. 603), the Humane Methods of Slaughter Act (HMSA) (7 U.S.C 1901 et seq.) and regulatory requirements (9 CFR Part 313).

Background

The FMIA (21 USC 601 *et seq.*) provides it is essential to the public interest that the health and welfare of consumers be protected, by assuring meat products distributed to them are wholesome, not adulterated, and properly marked, and labeled. The Act gives FSIS the authority, as designated by the Secretary of Agriculture, to prescribe rules and regulations describing sanitation requirements for inspected establishments and provide FSIS program personnel the authority to refuse to allow meat/meat food products to be marked, labeled, stamped, or tagged as *inspected and passed*, to prevent the entry of adulterated products into commerce. Furthermore, the FMIA provides FSIS the authority to appoint inspectors to examine and inspect the method by which livestock are slaughtered and handled at slaughtering establishments.

The HMSA 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.

Under the authority of the Acts, FSIS has prescribed rules and regulations required for establishments slaughtering and handling livestock, as required by 9 CFR Part 313. FSIS has also developed the Rules of Practice regarding administrative enforcement, 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, and for filing a complaint to withdraw a grant of inspection. Specifically, 9 CFR 500.3(b) states that FSIS may impose a suspension without providing prior notification due to handling or slaughtering of animals inhumanely.

Findings / Basis for Action

At approximately 0710 hours on Thursday, June 27th, 2024, while performing Humane Handling verification activities for HATS Category VIII - Stunning Effectiveness, IPP, observed the following noncompliance. An establishment employee was attempting to stun a beef heifer in the restrainer with a handheld captive bolt device. The employee positioned the HHCB on the animal's forehead and fired. The conscious heifer remained standing in the restrainer and was breathing, blinking, and tracking with her eyes. The establishment employee immediately reloaded the HHCB, positioned it on the animal's forehead, and fired again. The heifer was still conscious as she remained standing and continued breathing, blinking, and tracking with her eyes. The employee immediately reloaded the HHCB, positioned it on the animal's forehead, and fired a third time. The third attempt successfully rendered the animal unconscious, as she fell to the floor of the restrainer.

IPP informed Establishment Owner, Mr. Andrew Ratajczak, of the stunning noncompliance and took a verbal regulatory control action to stop any further stunning of livestock until IPP could confer with the Frontline Supervisor and District Office. US Reject tag B-46036438 was placed on the restrainer. IPP examined the head of the heifer and palpated three stunning holes in the skull. Further examination of the skull with the hide removed also revealed three stunning holes in the skull. The dorsal-most stunning hole was located on midline approximately 4.5 inches from the top of the poll. The middle stunning hole was located on midline approximately 5 inches from the top of the poll and the rostral-most stunning hole was located approximately 5.5 inches from the top of the poll and slightly to the left of midline. The ventral-most hole is approximately at the level of a line drawn between the middle of the eyes. All three stunning holes penetrated the skull at about 90 degrees and penetrated deeply. Examination of the split skull revealed that only the dorsal-most stun hole penetrated to the brain. The middle stun hole and rostral-most stun hole penetrated into the frontal sinuses.

The establishment failed to render the heifer insensible with a single stunning blow, which represents noncompliance with 9 CFR 313.15(a)(1).

On October 23, 2013, FSIS introduced new guidance [FSIS Compliance Guide for a Systematic Approach to the Humane Handling of Livestock - Oct 2013 \(usda.gov\)](https://www.usda.gov/oc/FSIS-Compliance-Guide-for-a-Systematic-Approach-to-the-Humane-Handling-of-Livestock-2013), which includes the components of a robust systematic approach to humane handling. You do not currently maintain a written humane handling program for consideration.

Conclusion

Provisions of the FMIA outline FSIS' ability to refuse to render inspection and indefinitely withdraw inspection from an establishment, provided the establishment is afforded the right to an administrative hearing, when conditions exist where the slaughter and/or handling of livestock was not by a method in accordance with the Act(s). Evidence demonstrates your failure to meet regulatory requirements addressed in 9 CFR 313.15(a)(1), constituting a violation of the humane slaughter requirements and supporting the conclusion that your handling of livestock violated the provisions of the FMIA and HMSA.

Based on the above findings, the Des Moines District Office has made a decision to suspend the assignment of inspectors for your slaughter operations, as per the Rules of Practice regulation 9 CFR Part 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 address the noncompliance detailed in this NOS, 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.

Your written response should include:

1. An initial assessment of the incident, including determination of the cause.
2. Immediate corrective actions taken.
3. Measures to prevent reoccurrence.
4. Any training of employees, materials used, and associated records.
5. Type of monitoring activity(s) to be conducted and associated monitoring records.

A determination of further administrative action will be made upon receipt and review of your submitted corrective actions and preventative measures. 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 your failure to respond adequately to these issues may result in our initiating action to withdraw inspection from your establishment.

Appeal and Hearing Rights

You have the right to appeal this matter and can do so by contacting:

Sherri N. Johnson, 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
Phone number: 202-379-6196

Pursuant to 9 CFR 500.5(d), you may also request a hearing regarding this determination. 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, please contact:

Scott C. Safian, Director
Enforcement Operations Staff (EOS)
Office of Investigation, Enforcement and Audit (OIEA)
Food Safety and Inspection Service
United States Department of Agriculture
Stop Code 3753, SB - Room 2148
1400 Independence Avenue, SW
Washington, DC 20250
Telephone: (202) 418-8872
Facsimile: (202) 245-5097
E-mail: AEBCorrespondence@usda.gov

If you have questions regarding this matter, please feel free to contact the Des Moines District Office at 515-727-8960 or District Veterinary Medical Specialist (b) (6)

(b) (6)

Sincerely,

**JEFFERY
JACOBSEN**

Digitally signed by
JEFFERY JACOBSEN
Date: 2024.06.27
12:37:11 -0500

Mr. Jeffery Jacobsen
District Manager
USDA FSIS OFO
Des Moines District