



Food Safety and
Inspection Service

May 16, 2024

Office of Field
Operations
Des Moines
District Office

Electronically mailed on May 16, 2024

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

Dan Lewer, Owner
Neighbors Meats, LLC, Est. M1880
PO Box 213
New Richland, Minnesota 56072
neighborsmeatsllc@gmail.com
507-456-3888

Voice
515.727.8960
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NOTICE OF SUSPENSION

Attention: Dan Lewer

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 Neighbors Meats, LLC, Est. M1880, located at 202 Ash Ave S, New Richland, Minnesota 56072. This letter follows verbal notification of the suspension action, provided by (b) (6), Frontline Supervisor, to Mr. Dan Lewer, Owner, at approximately 1205 hours on May 16, 2024.

This action is taken in accordance with the Rules of Practice regulation 9 Part Code of Federal Regulations (CFR) Part 500.3(b) due to an egregious inhumane handling incident that occurred at your establishment on May 16, 2024. The evidence 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 the regulatory requirements (9 CFR Part 313).

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; Title 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.

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 0830 hours, while performing a HATS Category VIII task, Stunning Effectiveness, IPP observed the following noncompliance. The beef heifer came into the restrainer box, fought the head restraint, slipped, and became recumbent on its sternum. The establishment employees attempted to get the heifer to rise but it remained recumbent. They asked FSIS Public Health Veterinarian (PHV) to verify the heifer was healthy and approve slaughter on a healthy animal. FSIS PHV approved the heifer for slaughter. The hand-held captive bolt (HHCB) went off on the first attempt and penetrated the skull. The heifer remained conscious, vocalized, and attempted to rise. The second stun was attempted with the backup HHCB. It penetrated the skull, but the heifer again remained conscious, vocalized, and attempted to rise. The third stun attempt with the backup HHCB penetrated the skull and the heifer slumped to its side, stopped vocalizing, ceased blinking, and appeared unconscious. The establishment cut the throat to allow the heifer to bleed out. Prior to shackling, the heifer was observed to be rhythmically breathing and attempted to rise. The fourth stun attempt with a HHCB rendered the animal unconscious.

IPP notified Establishment Owner Dan Lewer that slaughter would not be allowed to continue and of the forthcoming noncompliance. This is a violation of 9 CFR 313.15(a)(1) and 313.15(a)(3). IPP took a regulatory control action and placed a U.S. Reject tag #B38037056 on the restrainer and informed the establishment FSIS IPP would be contacting the District Office for further guidance. The head was reviewed after the incident. All four captive bolt holes were in the same location in the center of the head, caudal to the eyes.

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 detailed in 9 CFR 313.15(a)(1) and 313.15(a)(3) 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.

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 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.

You may provide this office written corrective actions and preventive measures concerning the NOS and we will determine further action, if any, based upon your response. If you choose to address this issue, 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 and to take appropriate corrective actions to prevent the production of or adulterated products 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.

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

Dan Lewer, Owner
Neighbors Meats, LLC, Est. M1880

Notice of Suspension
May 16, 2024

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)

Sincerely,

TODD GERWIG Digitally signed by TODD GERWIG
Date: 2024.05.16 13:46:29 -05'00'
for

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