



December 13, 2023

Donald's Meat Processing, LLC
M39968
194 McCorkle Drive
Lexington, VA 24450
(b) (6) @gmail.com
540-463-2333

ELECTRONIC MAIL on DECEMBER 13, 2023

Attention: Rosalea Potter, Manager/Owner

NOTICE OF REINSTATEMENT OF SUSPENSION

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 reinstate the suspension of the assignment of Inspection Program Personnel (IPP) at Donald's Meat Processing, LLC, M39968, located at 194 McCorkle Drive, Lexington, VA 24450. This letter follows verbal notification of the suspension action, provided by (b) (6), CSI, to Rosalea Potter, Plant Manager, at approximately 1342 hours on December 13, 2023. This action includes your Slaughter Hazard Analysis Critical Control Point (HACCP) processes employed at your establishment.

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 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/Authority

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

On 12/13/2023 at approximately 0928 hours, Inspection Program Personnel (IPP) observed the ineffective stun of two (2) lambs. Both lambs were brought to the stunning area and secured in the lamb stand. The employee attempted to stun the first lamb using a .22 caliber rifle, but the lamb remained standing. The employee then moved to the second lamb and attempted to stun it using the same .22 caliber rifle. Following the stun attempt, the 2nd lamb remained standing and the employee chambered another cartridge in the same .22 rifle. He then administered an immediate second stun which rendered the second lamb unconscious. The employee then moved back to the first lamb and administered a second stun using the same .22 rifle, which rendered the lamb unconscious. The Inspector in Charge (IIC) placed US Retain/Reject tag # B30899130 on the knock box. Observation of the lambs' skulls revealed that for the first lamb, both shots were in the proper location, but one shot appeared to be angled incorrectly. For the second lamb, both shots were properly placed but were too close together to determine exact angle of the projectile's entry.

This incident represents noncompliance with 9 CFR 313.16(a)(1), which states, in part: "*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.*" This incident is considered egregious because the employee failed to recognize consciousness in the first animal and failed to administer an immediate corrective action following the ineffective stun.

On September 9, 2004, FSIS published "*Humane Handling and Slaughter Requirements and the Merits of a Systematic Approach to Meet Such Requirements*" in the Federal Register (69 FR 54625). On September 24, 2020, FSIS released FSIS Directive 6900.2 Revision 3, entitled, "*Humane Handling and Slaughter of Livestock.*" Additionally, on October 23, 2013, FSIS introduced new guidance, titled "*FSIS Compliance Guide for a Systematic Approach to the Humane Handling of Livestock.*" Within the guidance material is information intended to better ensure the humane treatment of livestock presented for slaughter. The guidance material provides a set of practices designed to minimize excitement, discomfort, and accidental injury regarding the humane handling of livestock to include the four components of a robust systematic approach to humane handling.

When an establishment maintains a robust humane handling program, FSIS can exercise regulatory discretion when an inhumane handling or slaughter incident is observed. You do not currently maintain a written humane handling program for consideration.

Summary and 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.

Please provide a written response, inclusive of written corrective action and preventative measures, by addressing the following:

- Evaluate and identify the nature, cause of the incident.
- Describe the specific actions taken to eliminate the cause of the incident and prevent future recurrences.
- Describe specific monitoring activities planned to ensure future compliance.
- Provide any supporting documentation and records maintained and/or associated with the proposed corrective actions and preventative measures.

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 Johnson
Executive Associate for Regulatory Operations
Office of Field Operations
Food Safety and Inspection Service
United States Department of Agriculture
SB, Room 3154
1400 Independence Avenue, SW
Washington, DC 20250
Email: sherri.johnson@usda.gov
Phone: 202-379-6196

Rosalea Potter, Plant Manager
Donald's Meat Processing, LLC

Notice of Reinstatement of Suspension
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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 any questions, please contact Todd Furey via telephone at 919-326-5281 or via electronic mail at todd.furey2@usda.gov. Additionally, you can contact Raleigh District Office at 919-844-8400 or by fax at 844-839-6359.

Sincerely,

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GUPTON
Date: 2023.12.13 14:20:10
-05'00'

Todd Furey
District Manager

Rosalea Potter, Plant Manager
Donald's Meat Processing, LLC

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December 13, 2023

cc: S. Johnson, EARO/FO
L. Hortert, RD/CID/OIEA
(b) (6), HHEC/FO
T. Furey, DM/RDO/FO
R. Murphy, DDM/RDO/FO
M. Roling, DDM/RDO/FO
A. Gupton, DDM/RDO/FO
(b) (6), DCS/RDO/FO
(b) (6), DVMS/RDO/FO
(b) (6), SEIAO/RDO/FO
(b) (6), Program Manager/VDACS
(b) (6), Inspection Manager/VDACS
(b) (6), Supervisor/VDACS
(b) (6), State Public Health Veterinarian/VDACS
(b) (6), State Public Health Veterinarian/VDACS
(b) (6), IIC/VDACS
Quarterly Enforcement Report
Establishment File (Est. M39968)