



April 24, 2023

Donald's Meat Processing, LLC
M39968
194 McCorkle Drive
Lexington, Virginia 24450
buffalocreekbeef@gmail.com
540-464-1846

ELECTRONIC MAIL on April 24, 2023

Attention: Rosalea Potter, Plant Manager

NOTICE 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 suspend the assignment of Inspection Program Personnel (IPP) at Donald's Meat Processing, LLC, M39968, located at 194 McCorkle Drive, Lexington, Virginia 24450. This letter follows verbal notification of the suspension action, provided by Inspector (b) (6), Consumer Safety Inspector (CSI), to (b) (6), Kill Floor Supervisor at approximately 1330 hours on April 17, 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

At approximately 1300 hours on Monday, April 17, 2023, at your establishment, IPP identified an egregious humane handling noncompliance in which a heifer regained consciousness. IPP observed the kill floor supervisor attempt to stun a heifer with a 40-caliber pistol. The shot appeared to be effective as the heifer collapsed, and then its head was released from the head restraint, and the heifer rolled out of the knock box. As part of a routine stunning effectiveness check, IPP further verified that the heifer was unconscious. Plant employees placed an S-hook in the heifer's nose and attached the hoist to assist in positioning the head for sticking and head removal. After the hook was in the heifer's nose and the head, neck, and shoulder were hoisted, the heifer regained consciousness. IPP made note of vocalization immediately before the heifer stood up on its own. One of the plant employees immediately took a second stun attempt with a .22 magnum rifle, effectively rendering the heifer unconscious. IPP immediately took a regulatory control action to prevent further slaughter, and after consultation with the VMO, placed US Retain/Reject tag #B30899081 on the knock box at approximately 1330 hours to officially notify establishment management of the pending enforcement action.

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 313.16(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.

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:

Sherry 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: sherry.johnson@usda.gov
Phone: 202-205-0001

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:

Rosalee Potter, Plant Manager
Donald's Meat Processing, LLC, M39968

Notice of Suspension
April 20, 2023

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,

ROGER MURPHY

Digitally signed by ROGER
MURPHY
Date: 2023.04.25 14:19:12 -04'00'

Todd Furey
District Manager

Rosalee Potter, Plant Manager
Donald's Meat Processing, LLC, M39968

Notice of Suspension
April 20, 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. Thompson, 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), VMO/VDACS
(b) (6), VMO/VDACS
(b) (6), CSI/VDACS
Quarterly Enforcement Report
Establishment File (Est. M39968)