



United States Department of Agriculture

Food Safety and Inspection Service

October 26, 2022

Digitally signed copy hand-delivered
Signed original sent via FedEx

Office of Field Operations
Des Moines District Office

Mr. Getachew Tsehaye, Owner
Lonsdale Fresh Meats LLC
1409 South Trail Circle
Faribault, MN 55021

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

NOTICE OF SUSPENSION

Dear Mr. Tsehaye:

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 10/26/2022, of the decision to suspend the assignment of slaughter Inspection Program Personnel (IPP) at your firm, Lonsdale Fresh Meats LLC, M792, located at 7657 60th ST, West Lonsdale, MN, herein referred to as the/your establishment. This action is taken in accordance with the Rules of Practice regulation 9 Part Code of Federal Regulations (CFR) Part 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. FSIS is taking action due to an egregious inhumane handling incident that occurred at your establishment on 10/26/2022.

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.

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

While performing HATS task Category VIII, Stunning Effectiveness, at establishment M792, the following non-compliance was observed by FSIS In-Plant Personnel (IPP):

A large dairy heifer was being stunned by a designated establishment employee using a .22-caliber long rifle. IPP stood behind and to the right of the employee approximately twelve to fifteen feet. The plant uses a restraining box, but it is not equipped with a head restraint. The establishment employee applied one ineffective stun which hit approximately 2.5"-3" above and center from the eyes but the heifer remained standing and conscious. Evidence of consciousness included blinking and focused visual observation of its surroundings, shaking of its head, and continuous breathing. A small amount of blood was observed on the forehead.

The second ineffective stun was applied in approximately the same place as the first using the same rifle which did not require reloading. The animal did not appear agitated and did not delay the second shot due to positioning. The heifer backed up in the restrainer and shook its head but remained standing and conscious. The same previously mentioned signs of consciousness remained.

There was a delay between the second and third stuns while retrieving the other gun and the ammunition. The establishment employee left the slaughter floor, went through the plant office and the adjoining restroom to a storage closet located approximately 50-60 feet away. The designated employee retrieved a .410 shotgun, and ammunition was retrieved from a small, unlocked box located in the office. The gun was loaded, and the third stun was applied in a similar location on the forehead to the first two ineffective stuns. The heifer immediately went down and was rendered unconscious with the third stun.

IPP immediately stopped slaughter operations and tagged the restrainer box with tag number B40473398. Manager Moussie Tsehaye was immediately informed of IPP observations and the pending non-compliance record. Owner Getachew Tsehaye was advised of the non-compliance and that the District Office had been contacted through my supervisory channels. During post-mortem inspection, IPP observed two visible holes in the skull in the above-described location.

This is a violation of the FMIA (21 U.S.C.) 603, regulations 9 CFR Part 313.16 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 Title 7 U.S.C. 1901 and 1902 of the HMSA of 1978 and the regulatory requirements outlined in 9 CFR Part 313.16.

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 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 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. Preventive measures to prevent reoccurrence.
4. Any training of employees and materials used.
5. Type of monitoring activity for stunning effectiveness, along with a documentation record.

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:

Attention: 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
Office number: 202-379-6196
sherri.johnson@usda.gov

In addition, you may also request a hearing regarding this determination pursuant to FSIS Rules of Practice, regulation 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:

Attention: Scott C. Safian, Director
Enforcement Operations Staff
Office of Investigation, Enforcement and Audit
Food Safety and Inspection Service
United States Department of Agriculture
Stop Code 3753, PP3, Cubicle 9-235-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. (b) (6)

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Sincerely,

MARK

JOHNSON

Digitally signed by
MARK JOHNSON
Date: 2022.10.26
17:45:09 -0500

(for)

Dawn Sprouls, DVM
District Manager
USDA FSIS OFO
Des Moines District