



United States Department of Agriculture

Food Safety and
Inspection Service

October 8, 2019

Raleigh District Office

EMAIL / COURIER

6020 Six Forks Road
Raleigh, NC. 27609
Voice: 919-844-8400
Fax: 1-844-839-6359

Mr. Andrew Nelson, Owner
Nelson's Meat Processing, LLC, Est. M33927
2571 Yates Crossing Road
Milton, WV 25541

NOTICE OF REINSTATEMENT OF SUSPENSION

Dear Mr. Nelson,

This letter confirms the verbal notification given to your plant manager on October 8, 2019, at approximately 4:30 pm, by the Food Safety and Inspection Service (FSIS) Inspection Program Personnel (IPP) of the reinstatement of suspension of the assignment of inspectors for slaughter operations at Nelson's Meat Processing, LLC, Est. M33927, herein after referred to as "your establishment." This action was initiated in accordance with Title 9 of the Code of Federal Regulations (9 CFR) 500.3, after FSIS determined that your establishment failed to slaughter and handle animals humanely.

Background/Authority

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 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 slaughtering 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 establishments by any method not in accordance with sections 1901 to 1906 of Title 7 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 a method.

The Humane Methods of Slaughter Act of 1978 (7 U.S.C. 1901 et seq.) 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.

Findings/Basis for Suspension

At approximately 1100 hours on October 8, 2019, an employee attempted to stun a roaster hog using a hand held captive bolt (HHCB). The hog was restrained via snare and gate inside the knock box. The first stun attempt was unsuccessful as the hog remained standing and began vocalizing. The employee immediately reloaded the HHCB and successfully rendered the hog unconscious with the second shot. IPP took a regulatory control action and placed US Rejected Tag #B45137087 on the knock box in accordance with 9 CFR 313.50(c) and notified Ms. Melissa Dick, Plant Manager of the noncompliance. This establishment does not have a robust systematic approach to humane handling as it was already under an abeyance for two previous humane handling incidents involving stunning failures.

This incident represents a violation of 9 CFR 313.15(a)(1) which states, among other things, that "The captive bolt stunner shall be applied to the livestock in accordance with this section so as to produce immediate unconsciousness in the animals before they are shackled, hoisted, thrown, cast, or cut. The animals shall be stunned in such a manner that they will be rendered unconscious with a minimum of excitement and discomfort."

The reinstatement of suspension action will remain in effect until you provide the Raleigh District Office with adequate written assurances, including corrective actions and further planned preventive measures, to assure that livestock at your establishment are slaughtered humanely. In order to resume inspected operations, you must submit corrective actions to my attention at the District Office. These corrective actions should include at a minimum the following:

1. Identify the assessment process used to determine the nature and cause of the noncompliances.
2. Identify what the assessment revealed as the likely cause of the system failure.
3. Describe the specific actions that will be taken to eliminate the cause of the failures.
4. Describe the future monitoring activities you will use to ensure that changes are implemented and are effective.

You are reminded that, as an operator of a federally-inspected plant, you are expected to comply with FSIS regulations and to take appropriate corrective actions to prevent inhumane handling of livestock 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. Please also be advised that you have the right to appeal this matter.

In accordance with 9 CFR 500.5(a)(5), you may appeal this action by contacting:

U.S. Department of Agriculture
Food Safety and Inspection Service
Attention: Michael Watts
Executive Associate for Regulatory Operations
1400 Independence Avenue, SW
Room 344-E, Whitten Building
Washington, DC 20250

In addition, you may also request a hearing regarding this determination pursuant to FSIS' Rules of Practice (9 CFR 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:

Scott C. Safian, Director
Food Safety and Inspection Service
Office of Investigation, Enforcement and Audit
Enforcement and Litigation Division
Stop Code 3753, PP3, Cubicle 8-235A
1400 Independence Avenue, SW
Washington, D.C. 20250
Voice: (202) 418-8872
Fax: (202) 245-5097

It is our hope that this matter can be resolved quickly. If you have any questions, please call me at 919-208-2945 or Dr. Beth Cunningham, Deputy District Manager, at 919-208-2934. We urge your cooperation and voluntary compliance.

Sincerely,

TODD
FUREY

Digitally signed by
TODD FUREY
Date: 2019.10.09
09:58:03 -04'00'

Todd Furey
District Manager
Raleigh, NC

Cc:

P. Bronstein, AA/FO

M. Watts, EARO/FO

S. Safian, ELD/OIEA

L. Hortert, RD/CID/OIEA

R. Murphy, DDM/RDO/FO

M. Roling, DDM/RDO/FO

B. Cunningham, DDM/RDO/FO

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Quarterly Enforcement Report
Establishment File (Est. M33927)