



United States Department of Agriculture

Food Safety and
Inspection Service

Office of Field
Operations
Denver District Office

1 Denver Federal
Center, Bldg. 45
P.O. Box 25387
Denver, CO 80225

Voice (303)236-9800
Fax (303)236-9794

July 17, 2019

**SENT VIA FEDEX &
ELECTRONIC MAIL**

Mr. Hillel Shamam, Owner
Mr. Jeremy Anderson, Owner
Abe's Kosher Meats, LLC
Establishment M48144
1906 W. Main St.
Burley, ID 83318
Hillel@AbesKosherMeats.com
Jeremy@AbesKosherMeats.com

NOTICE OF SUSPENSION (NOS)

Dr. Mr. Shamam and Mr. Anderson,

This letter serves as official notification by the Food Safety Inspection Service (FSIS) of the suspension of the assignment of inspectors at your establishment and the withholding of the marks of inspection for the slaughter operations, in accordance with 21 U.S.C. 603 and Title 9 Code of Federal Regulations (CFR) Part 500.3 (b). The decision to issue this notification was made based on your failure to meet regulatory requirements regarding livestock humane slaughter at your establishment. You were verbally notified on July 16, 2019.

Background Authority

The *Federal Meat Inspection Act* (FMIA), 21 USC Section 603(b), provides for the purpose of preventing the inhumane slaughtering of livestock. The FMIA gives FSIS the authority, as designated by the Secretary of the Department of Agriculture, to prescribe rules and regulations describing examinations and inspections of the method by which cattle, sheep, swine, goats, horses, mules, and other equines are slaughtered in the establishments inspected under the FMIA. The FMIA also provides FSIS Program personnel the authority to suspend operations at a slaughtering establishment if FSIS 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 the *Humane Methods of Slaughter Act* (HMSA) of August 27, 1958 (72 Statute 862; Title 7 USC, Sections 1901-1906), until the establishment furnishes FSIS with satisfactory assurances that all slaughtering and handling in connection with the slaughter of livestock shall be in accordance with such methods.

Under the authorities of these Acts, FSIS has prescribed rules and regulations required

for the humane slaughtering of livestock, contained in Title 9 CFR Part 313. FSIS has also developed Rules of Practice regarding enforcement prescribed in 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 compliant to withdraw a Grant of Federal Inspection.

Finding/Basis for Action

On Tuesday, July 16, 2019, the FSIS Supervisory Public Health Veterinarian (SPHV) documented in a Memorandum of Information (MOI) the following event at Est. M48144:

At approximately 3:50 PM, the SPHV went out to the holding pens to watch the euthanasia of a dairy cow with epithelioma of the left eye that was condemned during antemortem inspection. The SPHV observed (b) (6) and the employee in charge of stunning attempt to restrain the cow before the animal mixed in with the group of cattle in the pen. The stunner employee came up behind the cow and applied a poll stun, but the cow was not rendered unconscious, only bleeding from the stunning site. The employees then separated the cow from the group and restrained her behind the gate. At approximately ten minutes after the first attempt, the cow was rendered unconscious with a stunning blow to the forehead. The SPHV confirmed that the first stun at the poll penetrated the skin behind the poll. The SPHV tagged the stunning box with U.S. Rejected Tag # B37602837.

Prior to this incident, the establishment was operating under a Deferral verification plan for a Notice of Intended Enforcement issued for an egregious handling event on May 17, 2019, whereby a private hauler struck a cow in the head with a shovel to unload the animal from a gooseneck trailer.

Summary

This event is a noncompliance to the regulatory requirements in Title 9 CFR 313.15(a)(1); the captive bolt stunners shall be applied to the livestock in accordance with this section 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. This is also noncompliant to 9 CFR 313.15(b)(1)(iii), which states; the stunning area shall be so designed and constructed as to limit the free movements of animals sufficiently to allow the operator to locate the stunning blow with a high degree of accuracy.

You are required to proffer the Denver District Office a written response of your analysis of the event, corrective actions and preventative measures as soon as possible, as no further slaughter can take place until the Denver District Office receives and approves your responses. Your response should include:

- A written description of the incident.
- The root cause of the incident.
- Your immediate corrective actions.

- Your specific corrective actions to prevent reoccurrence of the noncompliance.
- Any training or retraining of employees you plan to provide, including materials you're planning to use.
- Any monitoring procedures, including any documentation records.

Based on your response, FSIS will determine further action, if any, is necessary. In addition, failure to respond to this NOS and failure to assure that you handle and slaughter animals at your establishment humanely, in accordance with the statutory and regulatory requirements, may result in further administrative enforcement actions.

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

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

In accordance with 9 CFR 500.5(d), you may request a hearing concerning this action by contacting:

Scott C. Safian, Director
Food Safety and Inspection Service
Office of Investigation, Enforcement and Audit
Enforcement and Litigation Division
Patriots Plaza III
355 E Street SW
Mail Stop 3753, Cubicle 9-235A
Washington, DC 20024
Voice: (202) 418-8872
Fax: (202) 245-5097

If you have any questions regarding this matter, you may contact the Denver District Office at (303)236-9800.

Sincerely,

ROBERT
REEDER

Digitally signed by
ROBERT REEDER
Date: 2019.07.16
20:10:37 -06'00'

FOR

Dawn Sprouls, DVM
Acting District Manager
FSIS Denver District Office
Dawn.Sprouls@usda.gov

cc: FO/QR
Est. File
S. Hoffman, DDM
R. Reeder, DDM
J. Van Hook, DDM



S. Baucher, IEA, RD