



United States Department of Agriculture

Food Safety and
Inspection Service

April 17, 2020

Office of Field
Operations
Denver District Office

**SENT VIA FEDEX &
ELECTRONIC MAIL**

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Mr. Roger Brandao, President

(b) (6)

Gourmet Natural Meats LLC, Est, M46547
8168 Bob Hall Road
Lynden, WA 98264
Roger.gourmetnaturalmeats@gmail.com

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REINSTATEMENT OF SUSPENSION (ROS)

Mr. Brandao and (b) (6),

This letter confirms the verbal notification provided to your establishment, Gourmet Natural Meats LLC, Establishment M46547, located in Lynden, WA on Friday, April 17, 2020, by the Food Safety Inspection Service (FSIS), Denver District, of the reinstatement of suspension (ROS) of the assignment of inspectors and the withholding of the marks of inspection at your establishment for slaughter operations. This action was initiated in accordance with Title 21 of the United States Code (USC), Section 603(b) and Title 9 of the Code of Federal Regulations (CFR) Part 500.3(b) (Rules of Practice).

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 complaint to withdraw a Grant of Federal Inspection.

Findings/Basis for Action

On Friday, April 17, 2020, the FSIS Consumer Safety Inspector (CSI) documented in a Memorandum of Information (MOI) the following event at Est. M46547:

“At approximately 8:00am, the CSI went to the area adjacent to the truck unloading site to verify the prompt denaturing of multiple bob veal calves which had been discarded as plant rejects prior to the arrival of Inspection Program Personnel on site. The time of the corresponding truck unloading event was 7:39am, as reported on the establishment’s monitoring form. According to a plant manager these rejected calves were all euthanized with a hand-held captive bolt (HHCB) device prior to being unloaded and stacked on a palate. When the CSI arrived, he noted that a calf in the middle of the pile and buried underneath about 5 dead calves was moving and breathing rhythmically. As the CSI examined this calf’s head, which was sticking out from the pile, the CSI observed that the calf was blinking and exhibiting conscious eye tracking. The CSI immediately informed a plant manager of the finding, and a nearby plant employee headed to the stunning area within the slaughter floor to retrieve the establishment’s HHCB device. The CSI then elicited an intact palpebral reflex from the calf, observed the calf lift its head, and went to alert the SPHV of the situation. As the SPHV arrived at the area, a conscious vocalization was heard. IPP observed a successful first stunning attempt being applied, and the calf was rendered effectively unconscious. A second, ‘security’ stun was then applied. IPP examined the dead calf’s skull and verified two skull defects where the captive bolt device had been applied. IPP also discovered that this calf’s hide had been cut and reflected on the left lateral surface of its body wall prior to the observed stunning. Skin was absent from the area of the calf’s left hip to the calf’s left caudal shoulder, and denaturant was present on the underlying tissue.

IPP placed US Reject tag #B37310249 on the stunning area.”

Summary

The decision to reinstate the suspension of the assignment of inspectors at your establishment is based on this noncompliance with 9 CFR 313.15(a)(1) and your establishment's humane handling noncompliance history.

You were currently operating under the abeyance period for a Notice of Suspension issued on March 12, 2020, whereby an individual unloading bob veal calves from a trailer, on the official premises of your establishment, dragged and dropped a conscious animal during the unloading process. As your firm does not operate with a Robust Systematic Approach, regulatory discretion by the Denver District Office is not an option.

The suspension of the assignment of inspectors will remain in effect until such time as you provide the Denver District Office adequate written corrective actions and preventative measures to ensure that livestock at your establishment are handled and slaughtered humanely, and in accordance with the FMIA, the HMSA and 9 CFR 313 regulations.

These should include:

- A written description of the incident.
- The root cause of the incident.
- Your immediate corrective actions.
- Any training or retraining of employees you plan to provide, including materials you're planning to use.
- Any monitoring procedures, including any documentation records.

Your recent humane handling noncompliance history shows a systematic failure to comply with 9 CFR 313 regulations. Be advised that based on your recent history of non-compliance concerning the inhumane handling of livestock, the Denver District Office will be consulting with the Office of Investigation, Enforcement and Audit, Enforcement and Litigation Division (ELD). Further humane handling noncompliance may result in referring this matter to ELD and removal of your Grant of Inspection.

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

Paul Wolseley
Acting Executive Associate for Regulatory Operations
USDA/FSIS/OFO
Room 3159 South Building
Washington, D.C. 20250
Tel: 207-708-9506
Paul.Wolseley@usda.gov

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

Scott C. Safian
Enforcement and Litigation Division
Office of Investigation, Enforcement and Audit
Food Safety and Inspection Service
Stop Code 3753, PP III, Cubicle 9-235A
1400 Independence Avenue, SW
Washington, D.C. 20250
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: 2020.04.17
12:17:52 -06'00'

FOR

Valerie Clay
District Manager
FSIS Denver District Office
Valerie.Clay@usda.gov

cc: FO/QER
Est. File
S. Hoffman, DDM
R. Reeder, DDM

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A large black rectangular redaction box covers the majority of the content in this section. The text "(b) (6)" is printed in red at the top left corner of the redacted area.

S. Baucher, RD/OIEA