



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
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September 26, 2024
SENT VIA
ELECTRONIC MAIL

Kinkin Processing
Establishment M44911
1032 6450 Rd
Montrose, CO 81401
(b) (6)@kinikin.com
(970)240-4329

Attention: (b) (6), Establishment Administrator

NOTICE OF INTENDED ENFORCEMENT

This letter serves as official notification by the Food Safety and Inspection Service (FSIS) of our intent to withhold the marks of inspection and suspend the assignment of inspection program personnel (IPP), with prior oral notification provided by (b) (6), Supervisory Public Health Veterinarian on September 26, 2024, at Kinikin Processing, Establishment Number M44911, located in Montrose, CO. The decision to institute this enforcement action is in accordance with Title 9 Code of the Federal Regulations (CFR) Rules of Practice 500.3(b) (Rule of Practice), based on your establishment's failure to meet regulatory requirements regarding livestock humane slaughter.

Background / Authority

The Federal Meat Inspection Act (FMIA) (21 USC 603 (b)) and Poultry Products Inspection Act (PPIA) (21 USC 451 et seq.) provides for the purpose of preventing the inhumane slaughtering of livestock. The FMIA gives FSIS the authority, as designated by the Secretary 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 delegated 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 the Rules of Practice regarding enforcement (Title 9 CFR, Part 500). The Rules of Practice describe the types of enforcement action 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 Federal Grant of Inspection. FSIS can refuse to render inspection and indefinitely withdraw inspection from an establishment, provided the establishment is afforded the right to an administrative hearing.

Findings / Basis for Action

On September 26, 2024, the FSIS Supervisory Public Health Veterinarian (SPHV) documented in a Noncompliance Record (NR) the following event at Est. M44911:

"HATS Category VIII: Stunning Effectiveness

On September 26, 2024, at approximately 0725 hours while verifying livestock humane handling during slaughter operations at Est. 44911, both the CSI and SPHV observed the following noncompliance. Establishment personnel had driven a large, mature, older sow into the standard metal livestock stun box. The stun box prevented the sow from being able to turn around, but the sow was still able to move from side to side and forward and backwards within the stun box. The CSI and I were in a safe location while the stun operator attempted to stun the sow with a (b) (4) using hard tip full metal jacket ammunition.

I heard the firearm discharge once, and when I attempted to re-enter the slaughter floor, I was notified by the stun operator that he was going to apply a second stun but with a (b) (4) also using hard tip full metal jacket ammunition. I observed the sow was not vocalizing but had remained standing and alert in the stun box. The CSI and I exited the slaughter floor and were in a safe location.

Shortly thereafter I heard the firearm discharge for a second stun. When I attempted to re-enter the slaughter floor, the sow was standing on her rear legs, trying to climb out over the front of the stun box and get out of the stun box and was vocalizing. I observed blood on her face. The stun operator notified that me that he was going to stun again with the (b) (4) using hard tip full metal jacket ammunition. The CSI and I exited the slaughter floor and were in a safe location.

A third stun attempt was heard, and when I re-entered the slaughter floor the sow was conscious but down on her front limbs with her rear limbs still standing straight up, voluntarily blinking, and rhythmically breathing. The sow was not vocalizing.

The stun operator notified us that he was going to stun for a fourth time. The CSI and I exited the slaughter floor and were in a safe location. The stun operator had retrieved the (b) (4) rifle and applied a further stun attempt to the sow which rendered the sow insensible. I observed the stun operator verify unconsciousness by touching the cornea and receiving no response.

The sow remained unconscious during the shackling, hoisting, and bleeding process. A regulatory control action was taken by tagging the stun box with U.S. Reject Tag #B11002530.

The establishment owner was verbally notified of the forthcoming noncompliance record.

Upon inspection of the dressed head, one large penetrating hole slightly above the target zone was observed. All four projectiles entered in the same location. The hole was at an approximately 45-degree angle and had entered the cranium, verified via palpation by the SPHV.

There have been no noncompliance records issued for the same root cause within the past 90 days. The Denver District Management Team was notified through supervisory channels."

Prior to this incident, the establishment was determined to have a Robust Systematic Approach to humane handling of livestock.

Conclusion

In accordance with the Rules of Practice specified in 9 CFR Part 500.3(b), FSIS is notifying you of our intent to suspend the assignment of FSIS inspectors. This event is a noncompliance of regulatory requirements in ***Title 9 CFR 313.16(a)(1) The firearms shall be employed in the delivery of a bullet or projectile into the animal in accordance with this section so as to produce immediate unconsciousness in the animal by a single shot before it is shackled, hoisted, thrown, cast, or cut. The animal shall be shot in such a manner that they will be rendered unconscious with a minimum of excitement and discomfort. Title 9 CFR 313.16 (b) (1) (iii) The provisions contained in § 313.15(b)(1)(iii) with respect to the stunning area also apply to the shooting area. (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. All chutes, alleys, gates and restraining mechanisms between and including holding pens and stunning areas shall be free from pain-producing features such as exposed bolt ends, loose boards, splintered or broken planking, and protruding sharp metal of any kind. There shall be no unnecessary holes or other openings where feet or legs of animals may be injured. Overhead drop gates shall be suitably covered on the bottom edge to prevent injury on contact with animals. Roughened or cleated cement shall be used as flooring in chutes leading to stunning areas to reduce falls of animals. Chutes, alleys, and stunning areas shall be so designed that they will comfortably accommodate the kinds of animals to be stunned.) Title 9 CFR 313.16 (b) (2) Special requirements. Choice of firearms and ammunition with respect to caliber and choice of powder charge required to produce immediate unconsciousness of the animal may vary depending on age and sex of the animal. In the case of bulls, rams, and boars, small bore firearms may be used provided they are able to produce immediate unconsciousness of the animals. Small bore firearms are usually effective for stunning other cattle, sheep, swine, and goats, and calves, horses, and mules.***

The decision to issue a NOIE in lieu of a Notice of Suspension (NOS) is based on your establishment implementing a robust systematic approach to humane handling of livestock and the details of the incident.

Please provide the Denver District Office with a written response concerning this NOIE within three (3) business days from the date of your receipt of this letter, no later than close of business Tuesday, October 1, 2024. We will determine further action, if any, based on your response. 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 NOIE 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.

Kompass Kapital, Owner
Kinikin Processing, Est. M44911

Notice of Intended Enforcement
September 26, 2024

You may submit your response by fax to (303-236-9794), or by electronic mail. In accordance with Title 9 CFR 500.5(a)(5), you may appeal this action by contacting:

William Griffin
Executive Associate for Regulatory Operations
Office of Field Operations
Food Safety and Inspection Service
United States Department of Agriculture
SB, Room 3164
1400 Independence Avenue, SW
Washington, DC 20250
Email: William.Griffin1@usda.gov
Phone: (202) 961-7156

If you have any questions, you can contact the Denver District Office at (303) 236-9800 or by fax at (303) 236-9794.

Sincerely,

DAVID
JAMES

Digitally signed by
DAVID JAMES
Date: 2024.09.26
11:02:09 -06'00'

For
Dr. Robert Reeder
District Manager
USDA FSIS OFO
Denver District Office
Robert.Reeder@usda.gov

cc: W. Griffin, EARO
R. Reeder, DM
S. Smith, OIEA Regional Director
J. VanHook, DDM
D. James, DDM
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(b) (6), SEIAO
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FO/Quarterly Reports