



United States Department of Agriculture

Food Safety and
Inspection Service

March 28, 2023

Office of Field
Operations
Denver District Office

SENT VIA ELECTRONIC MAIL

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(b) (6), Establishment Administrator
Colorado Lamb Processors
Establishment M47194
1625 Agripark Rd
Brush, CO 80723
(b) (6)@cololamb.com

NOTICE OF INTENDED ENFORCEMENT (NOIE)

Dear (b) (6)

This letter serves as official notification by the Food Safety Inspection Service (FSIS) of its intent to withhold the marks of inspection and suspend the assignment of FSIS Inspection Program Personnel (IPP) at your establishment, Colorado Lamb Processors, Establishment M47194, located in Brush, Colorado. Dr. Robert Reeder, District Manager, verbally notified you of the Notice of Intended Enforcement (NOIE) on March 28, 2023. The decision to issue this notification was made in accordance with Title 9 of the Code of Federal Regulations (9 CFR) Part 500.3(b) (Rules of Practice), based on your failure to meet regulatory requirements regarding livestock humane slaughter at your establishment.

Background Authority

The *Federal Meat Inspection Act* (FMIA), Title 21 of the United States Code (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.

Finding/Basis for Action

On March 28, 2023, the FSIS Supervisory Public Health Veterinarian (SPHV) documented in a Noncompliance Record (NR) the following event at Est. M47194:

“HATS Category VIII: Stunning Effectiveness

While completing a Livestock Humane Handling Task at Colorado Lamb Processors on March 28, 2023 at approximately 11:32am, I, the SPHV, observed a conscious lamb sitting upright and looking around while on the conveyer in front of the sticker, during Halal slaughter, that utilizes electrical stunning before cutting the throat of the animals for bleeding. [The lamb should have arrived in a stunned unconscious state at this point in the slaughter process.] The sticker and the employee in charge of bringing the animals down the conveyer motioned for the SPHV to come assist with the situation. Upon arriving at the bleeding conveyer, the aforementioned employees asked the SPHV what to do. The sticker at this point in time was exclaiming that there had been an initial electrical current stun delivered to the animal, however the animal did not appear to be in distress, as it was calmly sitting sternal on the table while chewing cud, eyes tracking, and blinking. The SPHV informed the employees to contact their supervisor and that the animal would need to be rendered insensible as soon as possible, either by placing the animal back in line for electrical stunning or with their backup hand-held captive bolt (HHCB) device, in order to proceed with the slaughter day. The Hide-On Supervisor arrived at the bleeding conveyer, while loading the backup HHCB device, and delivered stun #2 to the animal while the animal was sitting sternal on the conveyor in front of the sticker and restrained manually by firmly grasping the left ear and mandible, which the animal struggled against. Following the stun, the SPHV observed the animal remain upright on the table, blinking, chewing cud, with blood pouring out of its nose. At this time, the SPHV advised the Hide-On Supervisor to deliver another stun immediately. After reloading the HHCB device, a third stun (second HHCB stun) was delivered to the animal. The animal continued to remain upright, this time showing more signs of distress by moving its head around quickly. The SPHV assessed the blinking reflex by touching the cornea, and the animal responded by repeatedly blinking, rhythmically breathing, still bleeding through its nose but not vocalizing. The Slaughter Floor Manager arrived at the location of the animal, reloaded the HHCB device and delivered a 4th stun (third HHCB stun) to the animal, rendering the animal unconscious.

The SPHV verbally notified the Slaughter Floor Manager that a Regulatory Control Action would be taken by placing a US Reject tag B41418881 on the restrainer, and that no more lambs should be stunned until the floor was released, but all stunned animals could be run through to the cooler. Upon inspection of the dressed head, three penetrating stun holes were observed. The Denver District Management Team was notified through supervisory channels. This noncompliance is being associated with MOI#GXL2215015926G issued on 1/26/2023. This establishment operates under a robust systematic approach to livestock humane handling.”

Summary

This event is a noncompliance of regulatory requirements in:

- Title 9 CFR 313.2(f) - *Stunning methods approved in 313.30 shall be effectively applied to animals prior to their being shackled, hoisted, thrown, cast or cut.*
- Title 9 CFR 313.15(a)(1) - *The captive bolt stunners 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.*
- Title 9 CFR 313.15(b)(1)(iii) - *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.”*

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.

You are required to proffer the Denver District Office a written response of your analysis of the event, corrective actions and preventative measures within three (3) working days from the receipt of this letter, no later than the close of business, March 31, 2023. 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.

In accordance with Title 9 CFR 500.5(b)(4), you may appeal this action by contacting:

Paul Wolseley, Executive Associate for Regulatory Operations
OFO, FSIS, USDA
1400 Independence Avenue, SW
SB, Room 3160
Washington, DC 20250
Email: Paul.Wolseley@usda.gov
Phone: (202) 937-4761

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

Sincerely,

ROBERT

 Digitally signed by ROBERT
REEDER
Date: 2023.03.28 15:54:31 -06'00'

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

cc: FO/QER
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S. Baucher, RD/OIEA