



Food Safety and
Inspection Service

Office of Field
Operations
Jackson District Office
713 S Pear Orchard Rd.
Plaza 2, Suite 402
Ridgeland, MS 39157

March 7, 2024

Bluegrass Lamb Company, LLC
Est. M47248
64 First Union Church Road
Glendale, Kentucky 42740
valerie@bluegrasslambcompany.com
502-565-8817

ELECTRONIC MAIL on March 7, 2024
FEDEX TRACKING #775453057343

Attention: Ms. Valerie Samutin, Executive Director/Owner

NOTICE OF INTENDED ENFORCEMENT

This letter serves as official notification by the Food Safety and Inspection Service (FSIS) of our decision to withhold the federal marks of inspection and suspend the assignment of Inspection Program Personnel (IPP), with prior oral notification, at Bluegrass Lamb Company, LLC, Est. M47248, located at 64 First Union Church Road, Glendale, KY. This letter follows verbal notification of the Notice of Intended Enforcement (NOIE) action, provided by Dr. Erin Moses, Deputy District Manager, to Ms. Valerie Samutin, Executive Director/Owner at approximately 10:00 AM CT on March 7, 2024.

The decision to institute this enforcement action is in accordance with Title 9 of the Code of Federal Regulations (CFR), Rules of Practice 500.4, based on the determination that your establishment did not handle or slaughter (euthanize) animals humanely. The evidence demonstrates failure to comply with the Federal Meat Inspection Act (FMIA) (21 U.S.C. 603), the Humane Methods of Slaughter Act (HMSA) (7 U.S.C. 1901 et seq.), and the regulatory requirements of 9 CFR Part 313.

Background/Authority

The FMIA (21 USC 601 *et seq.*) provides it is essential to the public interest that the health and welfare of consumers be protected, by assuring meat products distributed to them are wholesome, not adulterated, and properly marked, and labeled. The Act gives FSIS the authority, as designated by the Secretary of Agriculture, to prescribe rules and regulations describing sanitation requirements for inspected establishments and provide FSIS program personnel the authority to refuse to allow meat/meat food products to be marked, labeled, stamped, or tagged as *inspected and passed*, to prevent the entry of adulterated products into commerce. Furthermore, the FMIA provides FSIS the authority to appoint inspectors to examine and inspect the method by which livestock are slaughtered (euthanized) and handled at slaughtering establishments.

The HMSA provides that Congress finds that the use of humane methods in the slaughter (euthanization) of livestock prevents needless suffering; results in safer and better working conditions for persons engaged in the slaughtering (euthanasia) industry; brings about improvement of products and economies in slaughtering (euthanasia) 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 (euthanizing) of livestock and the handling of livestock in connection with slaughter (euthanasia) shall be carried out only by humane methods.

Under the authority of the Acts, FSIS has prescribed rules and regulations required for establishments slaughtering (euthanizing) and handling livestock, as required by 9 CFR Part 313. FSIS has also developed the Rules of Practice regarding administrative enforcement, 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, and for filing a complaint to withdraw a grant of inspection. Specifically, 9 CFR § 500.4 states that FSIS may take a withholding action or impose a suspension after an establishment is provided prior notification and the opportunity to demonstrate or achieve compliance.

Findings/Basis for Action

At approximately 0730 hrs. EST, establishment personnel for Bluegrass Lamb Co., Est. M47248, notified Inspection Program Personnel (IPP) of the intent to euthanize a suspect lamb (M-2826214) being held for treatment by your establishment. At approximately 0740 hrs. EST, the Supervisory Veterinary Medical Officer (SVMO) went to the holding pens of your establishment to find the suspect lamb lying in lateral recumbency, rhythmically breathing, with your establishment personnel standing over the animal. Upon closer inspection, blood was observed running from the nares of the lamb, with normal eye movement. The SPHV inquired of your establishment personnel if the lamb had been shot using the hand-held captive bolt device (HHCBD), to which your establishment personnel stated the lamb had been shot twice in the poll region of the head with the HHCBD and confirmed as observed by the Consumer Safety Inspector (CSI) assigned to your establishment. When the SPHV approached the lamb more closely and made a loud clapping sound, the lamb was observed to flinch in response and have normal eye tracking. The SPHV informed your establishment personnel that the lamb was still sensible and the need to render the animal insensible. Your establishment personnel retrieved the same HHCBD and fired a third shot to the forehead of the animal thereby rendering it insensible, and so it remained. Operations Manager (b) (6) and Kill Floor Supervisor (b) (6) were notified of the noncompliance with 9 CFR § 313.15(a)(1) and 9 CFR § 313.15(a)(3). U.S. Rejected tag #B45710220 was placed upon your establishment's kill floor entrance and the chain of command was contacted for further guidance.

On September 9, 2004, FSIS published "*Humane Handling and Slaughter Requirements and the Merits of a Systematic Approach to Meet Such Requirements*" in the Federal Register (69 FR 54625). On September 24, 2020, FSIS released FSIS Directive 6900.2 Revision 3, entitled, "*Humane Handling and Slaughter of Livestock*." Additionally, on October 23, 2013, FSIS introduced new guidance, titled "*FSIS Compliance Guide for a Systematic Approach to the Humane Handling of Livestock*." Within the guidance material is information intended to better ensure the humane treatment of livestock presented for slaughter (euthanasia). The guidance material provides a set of practices designed to minimize excitement, discomfort, and accidental injury regarding the humane handling of livestock to include the four components of a robust systematic approach to humane handling.

When an establishment maintains a robust humane handling program, FSIS can exercise regulatory discretion when an inhumane handling or slaughter (euthanasia) incident is observed. You do not currently maintain a written robust humane handling program for consideration.

Summary and Conclusion

Provisions of the FMIA outline FSIS' ability to refuse to render inspection and indefinitely withdraw inspection from an establishment, provided the establishment is afforded the right to an administrative hearing, when conditions exist where the slaughter (euthanasia) and/or handling of livestock was not by a method in accordance with the Act(s). Evidence demonstrates your failure to meet regulatory requirements addressed in 9 CFR § 313.15(a)(1) and 9 CFR § 313.15(a)(3), constituting a violation of the humane slaughter (euthanasia) requirements, and supporting the conclusion that your handling of livestock violated the provisions of the FMIA and HMSA.

Please provide this office with a written response concerning this NOIE within **three (3) working days** from the receipt of this letter. The corrective actions and preventive measures in your response should address the following:

- Evaluate and identify the nature, cause of the incident.
- Describe the specific actions taken to eliminate the cause of the incident and prevent future recurrences.
- Describe specific monitoring activities planned to ensure future compliance.
- Provide any supporting documentation and records maintained and/or associated with the proposed corrective actions and preventive measures.

A determination of further administrative action will be made upon receipt and review of your submitted corrective actions and preventive measures. You are reminded that, as an operator of a federally inspected establishment, you are expected to comply with FSIS regulations and to take appropriate corrective actions to prevent the production of or adulterated products 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.

Appeal and Hearing Rights

You have the right to appeal this matter and can do so by contacting:

Melissa Moore
Executive Associate for Regulatory Operations
Office of Field Operations
United States Department of Agriculture
1400 Independence Avenue
Room 3160, South Building
Washington, D. C. 20250
Mobile: (202) 450-0330
melissa.moore1@usda.gov

Pursuant to 9 CFR 500.5(d), you may also request a hearing regarding this determination. 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, please contact:

Scott C. Safian, Director
Enforcement Operations Staff (EOS)
Office of Investigation, Enforcement and Audit (OIEA)
Food Safety and Inspection Service
United States Department of Agriculture

Valerie Samutin, Executive Director/Owner
Bluegrass Lamb Company, LLC, Est. M47248

Notice of Intended Enforcement
March 7, 2024

Stop Code 3753, SB - Room 2148
1400 Independence Avenue, SW
Washington, DC 20250
Telephone: (202) 418-8872
Facsimile: (202) 245-5097
E-mail: AEBCorrespondence@usda.gov

If you have any questions, please contact Dr. Larry Davis via telephone at (601) 863-4206 or via electronic mail at larry.davis4@usda.gov. Additionally, you can contact the Jackson District Office at (601) 965-4312 or by fax at (601) 965-5901.

Sincerely,

ERIN
for **MOSES**
Dr. Larry Davis
District Manager
Jackson District Office

Digitally signed
by ERIN MOSES
Date:
2024.03.07
09:26:39 -06'00'

Cc: Ms. Melissa Moore, EARO
(b) (6), Humane Handling Enforcement Coordinator
Mr. Larry Hortert, OIEA Regional Director
Dr. Larry Davis, DM
Dr. Kermit Harvey, DDM
Ms. Cheryl Henry, DDM
Dr. Erin Moses, DDM
(b) (6), SEIAO
(b) (6), DCS
(b) (6), DVMS
(b) (6), FLS
(b) (6), SPHV at Est. M47248
FO/Quarterly Reports