



United States Department of Agriculture

Food Safety and  
Inspection Service

Office of Field  
Operations  
Denver District Office

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Denver, CO 80225

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December 26, 2019

**SENT VIA FEDEX &  
ELECTRONIC MAIL**

(b) (6)

WholeStone Farms Cooperative, Inc.  
Establishment M46491  
900 South Platte Ave  
Fremont, NE 68025

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**NOTICE OF INTENDED ENFORCEMENT (NOIE)**

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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, WholeStone Farms Cooperative, Inc., Establishment M46491, located in Fremont, NE. The decision to issue this notification was made in accordance with 9 CFR 500.3(b) (Rules of Practice), based on your failure to meet regulatory requirements in regard to livestock humane slaughter at your establishment.

**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.

### **Finding/Basis for Action**

On Thursday December 26, 2019, the FSIS Frontline Supervisor (FLS) documented in a Memorandum of Information (MOI) the following event at Est. M46491:

*At approximately 1414 hours, an establishment employee applied a hand-held captive bolt (HHCB) device to a market hog marked for condemnation by the PHV in the segregation pen. The first stun attempt did not render the animal unconscious. The animal was standing and ran in the opposite direction from the stun operator. The same establishment employee applied a second stun attempt with the HHCB device to the market hog from behind the right ear. The second stun attempt did not render the animal unconscious. The hog was still standing, vocalizing and ambulated in the opposite direction from the stun operator. Another establishment employee attempted to stun the animal for a third time; however, the HHCB device fired but did not make contact with the animal (missed stun). The hog was not agitated by this. An establishment employee began to approach the hog for another stun attempt. The hog was moving its head around and the PHV intervened by recommending the employees restrain the animal using a hog board or the like. The establishment employees immediately retrieved a hog board to confine the animal between the concrete wall of the segregation pen and the hog board. Then, an establishment employee applied a stun attempt with the HHCB device to the market hog and rendered the animal unconscious. U.S. Reject tags #B39982436 and #B39982444 were applied to each alleyway to the CO2 stunners.*

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

### **Summary**

*This event is a noncompliance of 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 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.**

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 and the details of the incident.

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 working days from the receipt of this letter, no later than the close of business, December 31, 2019. 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.

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

Sincerely,

for 

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

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

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S. Smith, RD/OIEA