



United States Department of Agriculture

Food Safety and
Inspection Service

December 21, 2021

Office of Field
Operations
Denver District Office

**SENT VIA FED EX &
ELECTRONIC MAIL**

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Center, Bldg. 45
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Roger Dillon, Plant/QC Manager
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Burley, ID 83318
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NOTICE OF INTENDED ENFORCEMENT (NOIE)

Dear Mr. Dillon,

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 Ida-Beef LLC, M45948 located in Burley, Idaho. The decision to issue this notification was made 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), based on your failure to meet regulatory requirements in regard to livestock humane slaughter at your establishment. Dr. David James, Deputy District Manager, informed you by phone of the Notice of Intended Enforcement (NOIE).

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 Monday, December 20, 2021, FSIS IPP documented in a non-compliance report (NR) the following event at Est. M45948:

“HATS Category VIII – Stunning Effectiveness

On 12/20/2021, at approximately 1300 hours, while watching an establishment yards employee stun a non-ambulatory disabled Holstein cow, FSIS IPP observed the following noncompliance. The employee placed the handheld captive bolt device against the cow’s head and fired the hand-held captive bolt device. The stun was ineffective, and the cow proceeded to blink multiple times and move its head in a controlled movement away from the employee. The employee immediately grabbed the backup handheld captive bolt device and applied a second ineffective stun. I observed bleeding from the hole in the cow’s head and I observed the cow completely rise to its feet, stagger for approximately 10 seconds, and then fall down. The employee reloaded the handheld captive bolt device and applied a third ineffective stun attempt, where the cow continued to blink and attempted to rise again. The employee reloaded the handheld captive bolt device again and approximately one minute after the third stun attempt, a second yards employee ran over and applied the fourth stun attempt, which was successful in rendering the cow unconscious. At approximately 1310 hours I applied US Reject tag No. B-45946131 to the stun box. The Quality Assurance Manager, Roger Dillon, was verbally notified of the noncompliance and regulatory control action. The Denver District Management Team was contacted through supervisory channels.”

Summary

This event is an egregious noncompliance of the 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, Monday, December 27, 2021. 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,

ROBERT
REEDER

Digitally signed by
ROBERT REEDER
Date: 2021.12.21
12:28:09 -0700'

Dr. Robert Reeder
District Manager
USDA FSIS OFO
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cc: FO/QER
Est. File
D. James, DDM
J. Monteverde, DDM
J. VanHook, DDM

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S. Baucher, RD/OIEA