



United States Department of Agriculture

Food Safety and  
Inspection Service

June 10, 2022

Office of Field  
Operations  
Denver District Office

**SENT VIA FEDEX &  
ELECTRONIC MAIL**

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Center, Bldg. 45  
P.O. Box 25387  
Denver, CO 80225

Voice (303) 236-9800  
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Dan Ligienza, Owner  
c/o Elli Funakoshi, Establishment Administrator  
Maui Cattle Company, LLC, Est. 27268A  
250 Old Puunene Ave  
Puunene, Hawaii 96779  
[info@mauicattlecompany.com](mailto:info@mauicattlecompany.com)

(b) (6)

## NOTICE OF SUSPENSION

Dear Mr. Ligienza/ Ms. Funakoshi,

This letter confirms the verbal notification provided to your establishment, Maui Cattle Company, LLC, Est. 27268A, located in Puunene, Hawaii, on Friday, June 10, 2022, by the Food Safety Inspection Service (FSIS), Denver District, of the suspension of the assignment of inspectors and the withholding of the marks of inspection at your establishment for slaughter operations. Dr. Robert Reeder, District Manager, verbally notified you of the suspension. This action was initiated 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).

### 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 Friday, June 10, 2022, the FSIS (b) (6), documented in a Noncompliance Record (NR) the following event at Est. M27268A:

*“On Friday June 10, 2022, at ~0730 hours I, (b) (6), was onsite for lamb slaughter at Maui Cattle Company (M27268A). The second lamb of the day was being stunned in an alternative entrance area and not the stun box typically used for cattle. This area does not have adequate built-in restraint, so they relied on an employee to restrain the animal while a second employee stuns. I was conversing with a plant employee on the other side of the door when I heard the captive bolt device discharge. A short time (less than 30 seconds) later the CSI called me out to look at the animal. The lamb in question was standing and walking, disoriented, but quiet. Blood was observed coming from the nostrils and I could see where the captive bolt made contact on the head. While I was observing this the stun operator attempted a second stun, in the same area, which was also ineffective. The lamb dropped but remained conscious. A palpebral reflex, eye tracking, and rhythmic breathing were all present, and it attempted to rise. At this point the stun operator was observed to watch the lamb but not make any attempted corrective actions, so we informed him that he needed to stun again. He had to reload the captive bolt so there was another ~30 sec. delay, and when he attempted to stun, I noticed the captive bolt was placed in the same area, so I asked that he “aim higher”. He did so and the 3<sup>rd</sup> stun was effective. I verbally informed them that we were taking a withholding action and called Ms. Monteverde, DDM. After the call the alternative entrance knocking area was rejected with US Reject tag, B-45040510. I informed the responsible plant employee that they could finish the dressing and inspection of the first two animals that were stunned but no further stunning could occur. I also let them know that a withholding action will remain in place and depending on the conversation with district office they may face a possible suspension if the determination was that this was egregious. I was informed that the captive bolt device they typically use for lambs is not functioning, so they used the larger cattle captive bolt device. Even though they had a backup captive bolt device, it was not loaded or used, (i.e. they used the same device on all three attempts). (b) (6) verified three penetrating holes through the skull - the first hole was located right between the eyes and the second hole was touching the first. The third hole was ~1/2 inch higher on the skull. I informed the Plant Manager, Ms. Elli Funakoshi, of the withholding action via email since she was not on-site.”*

### **Summary**

The decision to suspend the assignment of inspectors at your establishment is based on noncompliance with 9 CFR 313.15(a)(1) and 313.15(b)(1)(iv). This is an inhumane noncompliance, whereby multiple stunning attempts were required to render a lamb unconscious.

The suspension of the assignment of inspectors will remain in effect until such time as you provide the Denver District Office adequate written corrective actions and preventative measures to ensure that livestock at your establishment are handled and slaughtered humanely, and in accordance with the FMIA, the HMSA, and 9 CFR 313 regulations.

These 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.

In accordance with Title 9 CFR 500.5(a)(5), you may appeal this action by contacting:

Paul Wolseley  
Executive Associate for Regulatory Operations  
Office of Field Operations  
Food Safety and Inspection Service  
United States Department of Agriculture  
1400 Independence Avenue, SW  
Room 1329, South Building  
Washington, D.C. 20250  
Tel: 202-708-9506  
[Paul.Wolseley@usda.gov](mailto:Paul.Wolseley@usda.gov)

In accordance with 9 CFR Part 500.5 (d), you may request a hearing concerning this action by contacting:

Scott C. Safian  
Enforcement and Litigation Division  
Office of Investigation, Enforcement and Audit  
Food Safety and Inspection Service  
Stop Code 3753, PP3, Cubicle 9-235-A  
1400 Independence Avenue, SW  
Washington, D.C. 20250  
Voice: (202) 418-8872  
Fax: (202) 245-5097

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: 2022.06.10 13:26:13 -0600

Dr. Robert Reeder  
District Manager  
USDA FSIS OFO  
Denver District Office  
[Robert.Reeder@usda.gov](mailto:Robert.Reeder@usda.gov)

cc: FO/QER  
Est. File  
D. James, DDM  
J. Monteverde, DDM  
J. VanHook, DDM

(b) (6)

S. Baucher, RD/OIEA