

Wagner, Scott - FSIS

From: [REDACTED] - FSIS
Sent: Wednesday, November 30, 2011 12:02 PM
To: [REDACTED] FSIS; Wagner, Scott - FSIS; Gallegos, Anna - FSIS
Cc: [REDACTED] - FSIS
Subject: Re: 07299 HH MOI

I don't see this as egregious. RCA and NR in order, but I don't think a suspension is called for.

Sent from my BlackBerry Wireless Handheld

From: [REDACTED] - FSIS
Sent: Wednesday, November 30, 2011 12:52 PM
To: Wagner, Scott - FSIS; Gallegos, Anna - FSIS; [REDACTED] - FSIS
Cc: [REDACTED] - FSIS
Subject: 07299 HH MOI

All:

Attached is the MOI for the 11/30/11 MOI with 07299 regarding the cow held in the chute with her foot stuck.

I welcome any feedback. Please let me know if I am to print and deliver to Mr. De Los Santos. I have left the MOI open for editing purposes based on your comments.

Also, I will forward to the Alameda DVMS once I find her email address.

Thank you,

[REDACTED]

<<11.30.11.07299.HH.MOI.pdf>>

[REDACTED] *D.V.M., M.P.H*

SPHV Roswell, NM

575-[REDACTED]

Wagner, Scott - FSIS

From: [REDACTED] FSIS
Sent: Wednesday, November 30, 2011 1:30 PM
To: Gallegos, Anna - FSIS; Wagner, Scott - FSIS; Henley, Amy - FSIS
Cc: [REDACTED] FSIS; [REDACTED] - FSIS; Symons, Sara - FSIS
Subject: 07299 humane handling

Good afternoon all.

I apologize for the miscommunication earlier regarding the humane handling noncompliance at 07299. Per the decision of a non-egregious event, I have compiled a noncompliance record and corresponding MOI providing documentation of the verbal suspension followed by release of the knocking area with issuance of a noncompliance record following further review.

Both documents are not finalized and can be edited with your comments prior to issuance to the company.

Please let me know if one or both MOIs are to be delivered to the company.

Thank you all for your assistance,

[REDACTED]



11.30.11.07299.M 11.30.11.07299.NR
OI.NotEgregiou... .pdf

[REDACTED] *D.V.M., M.P.H*
SPHV Roswell, NM
575-[REDACTED]



United States
Department of
Agriculture

Food Safety and
Inspection Service

Washington, D. C.
20250

From: [REDACTED]
Date: 11/30/2011
Subject: Memorandum Of Interview YJL0814115530G
Meeting Date: 11/30/2011
Meeting Time: 12:10 PM
Reason Code:

Comments:

11/30/11

Today, November 30 2011, at approximately 1040 hours MST, SPHV [REDACTED] verbally notified Mr. Rick De Los Santos, owner of Establishment 07299 Valley Meat Company, of the decision to suspend slaughter operations at the facility. SPHV [REDACTED] informed Mr. De Los Santos the District Office had been contacted and that an official letter of suspension would be written and delivered.

At approximately 1210 hours MST, SPHV [REDACTED] informed Mr. De Los Santos the knocking area was released and slaughter operations could continue. SPHV [REDACTED] explained to Mr. De Los Santos, the written MOI sent electronically by SPHV [REDACTED] to the Denver District Office, had clarified points of the humane handling noncompliance observed and that the situation was determined as not egregious and a noncompliance record (YJL0614111130N) would be issued instead of a suspension action. SPHV [REDACTED] stated this situation demonstrates why the protocol used by FSIS for humane handling is in place and why Mr. De Los Santos had not yet received a written MOI. SPHV [REDACTED] reported to Mr. De Los Santos that Deputy District Manager Gallegos had authorize the establishment one additional hour of slaughter beyond the normal duty hours in compensation for the slaughter time lost during the review process 11/30/11.

Plant Management Response:

The request for this information is voluntary. It is needed to monitor defects found in this inspection system. It is used by FSIS to determine whether establishments are in compliance. 9CFR 301 and 9CFR 381, FORM APPROVED OMB No. 0583-0089. OMB DISCLOSURE STATEMENT: Public reporting burden for this collection of information is estimated to average 7 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to Department of Agriculture, Clearance Officer, OIRM, Room 404-W, Washington DC 20250; and to the Office of Information and Regulatory Affairs, Office of Management and Budget.

US Department of Agriculture FOOD SAFETY AND INSPECTION SERVICE NONCOMPLIANCE RECORD	TYPE OF NONCOMPLIANCE <input type="checkbox"/> Food Safety <input checked="" type="checkbox"/> Other Consumer Protection
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1. DATE 11/30/2011	2. RECORD NO. YJL0614111130N / 1	3. ESTABLISHMENT NO. M7299 ; P7299
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4. TO (Name and Title) RICARDO DE LOS SANTOS Owner	5. PERSONNEL NOTIFIED RICARDO DE LOS SANTOS;
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6. RELEVANT REGULATIONS 313.1 Livestock pens, driveways and ramps 313.2 Handling of livestock	6a. LINKED NR(s)
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7. TITLE(S) OF HACCP OR SSOP PLAN or OTHER SUPPORTING DOCUMENTATION	7a. NAME OF HACCP CCP(S) or PREREQUISITE PROGRAM
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8. INSPECTION TASK Livestock Humane Handling	9. VERIFICATION ACTIVITY <input checked="" type="checkbox"/> Review & Observation <input type="checkbox"/> Record Keeping <input type="checkbox"/> Both	9a. AFFECTED PRODUCT INFORMATION
9b. RETAIN/REJECT TAGS		B40248214

10. DESCRIPTION OF NONCOMPLIANCE

11/30/11

Today, November 30 2011, at approximately 1040 hours MST, SPHV [redacted] verbally notified Mr. Rick De Los Santos, owner of Establishment 07299 Valley Meat Company, of the decision to suspend slaughter operations at the facility. SPHV [redacted] informed Mr. De Los Santos the District Office had been contacted and that an official letter of suspension would be written and delivered. The decision to suspend was based on the following:

At approximately 1015 MST, Intermittent Inspector [redacted] reported to SPHV [redacted] that she had observed an adult dairy cow being held in the side chute on the cement ramp to have a rear leg caught on the lowest rung of the metal piping side. Intermittent [redacted] explained to SPHV [redacted] the cow was being held there because the [redacted] usually used was not working and the company was obtaining the correct knocking firearm. Please note this animal was lead into the chute at approximately 1000 hours MST. SPHV [redacted] informed Intermittent [redacted] to tag the knocking area while SPHV [redacted] investigated the cow in the side chute. Intermittent [redacted] placed USDA Reject Tag#B40248214 in the knocking area immediately after the last cow which had been knocked was shackled and hoisted.

At approximately 1018 hours MST, SPHV [redacted] observed one adult dairy cow being held in the side chute along the east wall of the building, on the cement ramp. The cow was facing south toward the kill floor entrance, was approximately half way up the ramp, and had her left rear hoof caught on the lower level of the two tiered metal piping side of the chute (piping abuts the exterior wall of the facility). SPHV [redacted] did not observe the animal to be in distress or vocalizing, only unable to remove her hoof from the piping tier, which was approximately eighteen to twenty-four inches off the ground, after repeated attempts.

As SPHV [redacted] was returning into the facility via the front entrance at approximately 1020 MST, Intermittent [redacted] and Mr. De Los Santos exited the facility through the kill floor and released the cow. Mr. De Los Santos and Intermittent [redacted] met SPHV [redacted] in the USDA office and verbally reported the cow had been able to walk forward once the chute door was opened; Intermittent [redacted] verified this report. SPHV [redacted] verbally informed Mr. De Los Santos the Front Line Supervisor (FLS) and District Veterinary Medical Specialist (DVMS) would be contacted to report the humane handling noncompliance and for guidance on removing the USDA reject tag. Mr. De Los Santos stated he did not understand why there was a humane handling violation as the cow was okay. SPHV [redacted] explained that the HMSA and corresponding 9 CFR regulations in 313 outline that pens, alleyways, and all aspects of handling of live animals are considered humane handling elements and an animal being held in a chute with her leg stuck causing discomfort, and additionally without observation or intervention by the company, is noncompliance. Mr. De Los Santos further stated that he had the impression that USDA was trying to prevent him from doing business. SPHV [redacted] explained that the field office inspection enforces the regulations and the humane handling regulations were not developed solely by USDA and that other parties, such as lobby

sts, were involved in their development.

SPHV [redacted] stated the following to Mr. De Los Santos. Intermittent [redacted] observed a noncompliance and protocol was being followed for humane handling noncompliance. FSIS enforces the regulations and ensures the company is in compliance. It is the company employees who are to be following the regulations and FSIS to verify they are being followed. Intermittent [redacted] looked outside to check on the cow which had been left in the chute while the correct firearm was obtained by the company. It so happens, that Intermittent [redacted] instead of the company employees, observed the cow having her foot stuck in the chute side.

Following the telephonic discussion with Denver Deputy District Manager, Ms. Anna Gallegos, SPHV [redacted] verbally informed Mr. De Los Santos of the noncompliance as above. SPHV [redacted] explained to Mr. De Los Santos the company was currently in a Suspension in Abeyance of a humane handling violation occurring within the same month (November 4, 2011) and that a verbal suspension was being issued with a written letter to follow.

11. SIGNATURE OF INSPECTION PROGRAM EMPLOYEE

You are hereby advised of your right to appeal this decision as delineated by 306.5 and/or 381.35 of 9 CFR.

12. PLANT MANAGEMENT RESPONSE:

13. PLANT MANAGEMENT RESPONSE (Immediate action(s)):

14. PLANT MANAGEMENT RESPONSE (further planned action(s)):

This document serves as written notification that your failure to comply with regulatory requirements(s) could result in additional regulatory or administrative action.

15. SIGNATURE OF PLANT MANAGEMENT

16. DATE

17. VERIFICATION SIGNATURE OF INSPECTION PROGRAM EMPLOYEE

18. DATE

Wagner, Scott - FSIS

From: [REDACTED] - FSIS
Sent: Wednesday, November 30, 2011 1:34 PM
To: [REDACTED] - FSIS; Gallegos, Anna - FSIS; Wagner, Scott - FSIS; Henley, Amy - FSIS
Cc: [REDACTED] - FSIS; Symons, Sara - FSIS
Subject: Re: 07299 humane handling

The MOI was thorough and detailed. Well written. I wouldn't change anything.

Sent from my BlackBerry Wireless Handheld

From: [REDACTED] FSIS
Sent: Wednesday, November 30, 2011 02:30 PM
To: Gallegos, Anna - FSIS; Wagner, Scott - FSIS; Henley, Amy - FSIS
Cc: [REDACTED] - FSIS; [REDACTED] - FSIS; Symons, Sara - FSIS
Subject: 07299 humane handling

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Thank you all for your assistance,

[REDACTED]

<<11.30.11.07299.MOI.NotEgregious.pdf>> <<11.30.11.07299.NR.pdf>>

[REDACTED] *D.V.M., M.P.H*

SPHV Roswell, NM

575-[REDACTED]

Wagner, Scott - FSIS

From: Henley, Amy - FSIS
Sent: Wednesday, November 30, 2011 1:43 PM
To: [REDACTED] - FSIS; Gallegos, Anna - FSIS; Wagner, Scott - FSIS
Cc: [REDACTED] - FSIS; [REDACTED] - FSIS; Symons, Sara - FSIS
Subject: RE: 07299 humane handling

Good Afternoon

I agree with Dr. [REDACTED] on the MOI.

Thanks

Amy Leider Henley MA, DVM, MPH
District Veterinary Medical Specialist
Alameda District
USDA - Food Safety Inspection Service
620 Central Ave bldg 2C
Alameda CA 94501
O: 510-769-5708
M: 510-715-7526
F: 510-337-8707
amy.henley@fsis.usda.gov

From: [REDACTED] FSIS
Sent: Wednesday, November 30, 2011 12:30 PM
To: Gallegos, Anna - FSIS; Wagner, Scott - FSIS; Henley, Amy - FSIS
Cc: [REDACTED] - FSIS; [REDACTED] - FSIS; Symons, Sara - FSIS
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[REDACTED] D.V.M., M.P.H.
SPHV Roswell, NM
575-[REDACTED]

Wagner, Scott - FSIS

From: [REDACTED] - FSIS
Sent: Wednesday, November 30, 2011 2:13 PM
To: Henley, Amy - FSIS; Gallegos, Anna - FSIS; Wagner, Scott - FSIS
Cc: [REDACTED] FSIS; [REDACTED] - FSIS; Symons, Sara - FSIS
Subject: RE: 07299 humane handling

Thank you all. I will print and issue the revised MOI (document releasing the knocking area) to the company.

[REDACTED]

From: Henley, Amy - FSIS
Sent: Wednesday, November 30, 2011 1:43 PM
To: [REDACTED] - FSIS; Gallegos, Anna - FSIS; Wagner, Scott - FSIS
Cc: [REDACTED] - FSIS; [REDACTED] - FSIS; Symons, Sara - FSIS
Subject: RE: 07299 humane handling

Good Afternoon

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Thanks

Amy Leider Henley MA, DVM, MPH
District Veterinary Medical Specialist
Alameda District
USDA - Food Safety Inspection Service
620 Central Ave bldg 2C
Alameda CA 94501
O: 510-769-5708
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amy.henley@fsis.usda.gov

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Cc: [REDACTED] - FSIS; [REDACTED] - FSIS; Symons, Sara - FSIS
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[REDACTED] *D.V.M., M.P.H*
SPHV Roswell, NM
575-[REDACTED]