

## Wagner, Scott - FSIS

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**From:** ██████████ FSIS  
**Sent:** Monday, December 12, 2011 3:28 PM  
**To:** ██████████ - FSIS; ██████████ - FSIS  
**Cc:** Gallegos, Anna - FSIS; Wagner, Scott - FSIS  
**Subject:** RE: NR Critique

All -

After reviewing the NR in Dr. ██████████ email, I realized this was not the final version of the NR I had compiled Word. I pasted the wrong NR into PHIS, a working copy instead of the final one. I must not have realized I saved the file twice. I apologize for this mistake which I did not catch because I did not print the document and thus did not review it again before filing and distributing the company (the company has not received the paper NR yet).

This is the NR you all should have received on 11/30 and I have made the changes in PHIS. Again I apologize for this error.

Thank you and sorry!



11.30.NR.Edited.07  
299.pdf

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**From:** ██████████ - FSIS  
**Sent:** Monday, December 12, 2011 12:04 PM  
**To:** ██████████ - FSIS; ██████████ - FSIS  
**Cc:** Gallegos, Anna - FSIS; Wagner, Scott - FSIS  
**Subject:** FW: NR Critique

██████████ I got this critique this morning from our acting hh coordinator in DC. Can you go in and edit this NR description? I know it's been finalized, but I think you can unlock it and justify a change. I think if you just delete the first paragraph it will eliminate the confusion. I assured him this wasn't reinstating a suspension, but I can understand the assumption. Thanks.

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**From:** Thompson, David (DDMDO90) - FSIS  
**Sent:** Monday, December 12, 2011 6:24 AM  
**To:** ██████████ - FSIS  
**Cc:** Thompson, David (DDMDO90) - FSIS  
**Subject:** NR Critique

Good Day ██████████ I hope all is well.

Here are some recent PHIS NRs for the Denver District for HH. A couple of things noticed I need to mention. Please have the field folks include the HAT Category in block 10 of the NR as instructed in the directive. Please send a reminder that HAT Category needs to be in there.

Also the NR for 7299 Valley Meat Co, the NR appears to be reinstating the suspension. The agency has made it a policy that a Suspension or Reinstatement of Suspension should be made with an MOI.

There is an appearance of "double jeopardy" to issue and NR and a "Suspension". Anyway we'll talk this one on the call tomorrow.

<< File: HHNR D15 10.1.11 - 11.30.11.pdf >>

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**United States Department of Agriculture  
Food Safety and Inspection Service**

**Public Health Information System  
Humane Handling NRs from PHIS for a District**

**Purpose:** NRs Created in the PHIS System

**Directives:** N/A

**Special Instructions:** Click on Refresh All to run the report.  
Click on the Filter Icon to filter the report.  
Click on View→Left Panel to see additional features.  
Click on Document to see save options

**Food Safety Inspection Service  
Humane Handling NRs from PHIS for a District**

**Noncompliance Records for District 15  
From 10/1/2011 To 11/30/2011**

**6 NRs**

Date	Establishment Number	Circuit	NR Number	Description	Status	Under Appeal?
11/30/11	M7299	1513	YJL0814111130N-1	<p>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 Rosemary [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</p>	Open	No

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Date	Establishment Number	Circuit	NR Number	Description	Status	Under Appeal?
				<p>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.</p> <p>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.</p> <p>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 lobbyists, were involved in their development.</p> <p>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</p>		

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				<p>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.</p>		

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Date	Establishment Number	Circuit	NR Number	Description	Status	Under Appeal?
11/30/11	M628	1531	YKA1318111430N-1	<p>On 11/30/11, at 1154 hours, while observing Humane Handling Activity in the catwalk above the drive alley prior to the knock box, CSI [redacted] observed the driver employee apply a prod to the anal area of one animal as it was moving to the knock box, which caused the animal to vocalize loudly. At this time, CSI [redacted] immediately notified [redacted] to stop production and of the above noncompliance. It was explained that prodding an animal especially in this sensitive area, when it is already moving is excessive and unnecessary prodding. Mr. [redacted] notified [redacted] and [redacted] CSI [redacted] notified SPHV [redacted] who in turn notified District Office (DO). A discussion with plant management included the fact that this employee is new to this position; he was using the air prod on animals that were moving; prodding the anal area did not seem to be intentional, but perhaps accidental. The plant gave corrective actions of relocating the employee to another position temporarily, retraining, and monitoring the employee. After consultation with DVMS Dr. [redacted] and DDM Dr. Scott Wagner in the DO, it was determined that this was an anomalous noncompliance with 9 CFR 313.2 (b). The plant's SOP pg. 3; Cattle Handling states...."Cattle that are slaughtered at this establishment will be handled in a manner to reduce stress or discomfort. Our goal is to move cattle in a manner that meets the requirements of the company, our customers and the USDA/FSIS." Dr. [redacted] released the drive alley at 1235 hours. A review of the last 90 days shows no similar noncompliance.</p>	Open	No

**Food Safety Inspection Service  
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Date	Establishment Number	Circuit	NR Number	Description	Status	Under Appeal?
11/23/11	M34265	1513	TJS0211112123N-1	<p>At approximately 0750 hours on November 23, 2011 during the performance of a Humane Handling verification task Dr. [REDACTED], SPHV, in part verified the requirements pertaining to the Handling of Livestock, 9 CFR 313.2 and observed the following noncompliance. The livestock water tank in the primary sheep holding pen was virtually dry and any water that remained was completely frozen. This pen contained approximately fifty sheep at the time the noncompliance was identified. This situation is in noncompliance with 9 CFR 313.2(e) in that livestock are to be provided access to water in all holding pens. Plant employee Mr. [REDACTED] was verbally informed of the noncompliance. Mr. [REDACTED] took immediate corrective actions by refilling the involved water tank.</p> <p>Earlier in the week Dr. [REDACTED] had expressed his concern to plant owner Mr. Donald Martinez in regards to overnight freezing temperatures and the recent formation of thin layers of ice on his water tanks. Mr. Martinez stated that he would install devices to prevent such ice formation. Observations of water tanks have shown that this situation has yet to be addressed by Mr. Martinez.</p> <p>The establishment maintains a humane handling notebook containing various documents associated with related practices as well as a document titled "Recommended Animal Handling Guidelines and Audit Guide 2005 Edition". Page 47 of this document identifies "Core Criteria 7" pertaining to access to water in all holding pens.</p> <p>A review of NRs from the previous 90 days found no similar noncompliance originating from the same root cause.</p>	Open	No



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Date	Establishment Number	Circuit	NR Number	Description	Status	Under Appeal?
11/12/11	M12426	1505	ECK3117110012N-1	On 11/12/2011 at approximately 0330 hours, while performing PHIS procedure (Humane handling), the following non compliance was noted: While performing a humane handling task, I discovered four livestock pens without water. The barrels containing water were tipped over. It was clear that the barrels did contain water due to the ground around the barrels were soaked. I informed Mr. [REDACTED] of the discrepancy listed above who immediately initiated corrective actions and re-filled the barrels. He also stated he will secure the barrels to the posts to prevent spillage in the future. I informed Mr. [REDACTED] both verbally and with this written NR of a non compliance with 9 CFR 313.1. No similar NRs written in the last ninety days.	Closed	No

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Date	Establishment Number	Circuit	NR Number	Description	Status	Under Appeal?
11/10/11	M628	1531	YKA3411115810N-1	<p>On 11-10-11 at 0715 hours Food Inspector (FI) [redacted] notified me, SCSL, [redacted] that while he was performing early morning ante mortem procedure that he identified the following non compliance. The following pens had ice in the troughs and the water feed was turned off: 1) Pen #9 and #10 shared trough, 2) Pen # 11 and A shared trough, 3) Pen B and C shared trough. These pens contained imported Canadian cattle and also domestic/local cattle. The approximate cumulative total was 346 head of cattle that were affected by having no water. FI [redacted] notified the yard employees that the cattle needed to have water. In Pen #11 the yard employee turned the water feed valve on and water immediately started filling the trough. The other above mentioned water feed valves were frozen and maintenance employees were called to thaw the pipes. I notified QA [redacted] of the non compliance. Ms. [redacted] informed me that I needed to notify [redacted] and [redacted] of the non compliance as well. At around 0945 Mr. Porter offered further corrective and preventive measures to me. Mr. [redacted] noted that he will have a meeting with yard employees on both the night and day shift about water flow in troughs throughout the day and night and to assure that water levels in troughs and water flows are monitored better. The above is non compliant with 9 CFR 313.2 (e) which states: "Animals shall have access to water in all holding pens, and if held longer than 24 hours, access to feed." There are no similar NR's in the past 90 days. This document serves as written notification that failure to comply with regulatory requirements could result in regulatory or administrative action.</p>	Closed	No

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Humane Handling NRs from PHIS for a District**

Date	Establishment Number	Circuit	NR Number	Description	Status	Under Appeal?
10/25/11	M7299	1513	YJL0417101825N-1	<p>On 10/25/11, at approximately 1540 hours MST, following the conclusion of slaughter activities, while verifying the denaturing of a antemortem condemned animal and performing routine humane handling of livestock water and feed accessibility (HAT Category III), SPHV [REDACTED] observed the following noncompliance. SPHV [REDACTED] observed one, single, dairy cow to be held in a rectangular pen, approximately ten by twenty feet, with no source of available water provided. SPHV [REDACTED] verbally notified the employees outside and water was provided in a black plastic round tub immediately. SPHV [REDACTED] observed the cow to be standing, in good condition for a dairy cull animal and not outwardly dehydrated. Upon receipt of the water, the cow did not appear overly thirsty, just curious. SPHV [REDACTED] observed the remaining animals (cattle) held in various other pens to all have a source of water available. SPHV [REDACTED] verbally notified Mr. Rick De Los Santos of the noncompliance immediately upon entering the facility. Mr. De Los Santos reported the cow was one of two which had arrived in the late afternoon for slaughter (the other was slaughtered). As slaughter was completed for the day and the employees immediately provided available water, no additional regulatory control action was taken. The above represents noncompliance with 9 CFR 313.2(e) requiring all animals in holding pens to have access to water. A search for noncompliance records issued within the last ninety days revealed none.</p>	Closed	No