



United States Department of Agriculture

Food Safety and
Inspection Service

Office of Field
Operations
Denver District Office

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P.O. Box 25387
Denver, CO 80225

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September 13, 2023

**Delivered by
Electronic mail**

Mountain Meat Packing Inc.
951 17 1/4 Road
Fruita, CO 81521
(b) (6) @gmail.com
(970) 824-4878

Attention: Mr. Gary Baysinger, Owner

NOTICE OF SUSPENSION

This letter serves as official notification by the Food Safety and Inspection Service (FSIS) of our decision to withhold the federal marks of inspection and suspend the assignment of Inspection Program Personnel (IPP) at Mountain Meat Packing Inc., M4979, located at 951 17 1/4 Road, Fruita, Colorado. This letter follows verbal notification of the suspension action, provided by Dr. Jessica VanHook, Deputy District Manager, to Mr. Gary Baysinger, Owner, at approximately 10:55 AM on September 13, 2023. This action includes your Slaughter Hazard Analysis Critical Control Point (HACCP) processes employed at your establishment.

The decision to institute this enforcement action is in accordance with Title 9 of the Code of Federal Regulations (CFR), Rules of Practice 500.3(b), based on the determination that your establishment did not handle or slaughter animals humanely. The evidence demonstrates failure to comply with the Federal Meat Inspection Act (FMIA) (21 U.S.C. 603), the Humane Methods of Slaughter Act (HMSA) (7 U.S.C. 1901 *et seq.*), and the regulatory requirements (9 CFR Part 313).

Background/Authority

The FMIA (21 USC 601 *et seq.*) provides it is essential to the public interest that the health and welfare of consumers be protected, by assuring meat products distributed to them are wholesome, not adulterated, and properly marked, and labeled. The Act gives FSIS the authority, as designated by the Secretary of Agriculture, to prescribe rules and regulations describing sanitation requirements for inspected establishments and provide FSIS program personnel the authority to refuse to allow meat/meat food products to be marked, labeled, stamped, or tagged as *inspected and passed*, to prevent the entry of adulterated products into commerce. Furthermore, the FMIA provides FSIS the authority to appoint inspectors to examine and inspect the method by which livestock are slaughtered and handled at slaughtering establishments.

The HMSA provides that Congress finds that the use of humane methods in the slaughter of livestock prevents needless suffering; results in safer and better working conditions for persons engaged in the slaughtering industry; brings about improvement of products and economies in slaughtering operations; and produces other benefits for producers, processors, and consumers which tend to expedite an orderly flow of livestock and livestock products in interstate and foreign commerce. It is therefore declared to be the policy of the United States that the slaughtering of livestock and the handling of livestock in connection with slaughter shall be carried out only by humane methods.

Under the authority of the Acts, FSIS has prescribed rules and regulations required for establishments slaughtering and handling livestock, as required by 9 CFR Part 313. FSIS has also developed the Rules of Practice regarding administrative enforcement, 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, and for filing a complaint to withdraw a grant of inspection. Specifically, 9 CFR 500.3(b) states that FSIS may impose a suspension without providing prior notification due to handling or slaughtering of animals inhumanely.

Findings/Basis for Action

On September 13, 2023, at approximately 0930 hours while verifying livestock humane handling during slaughter operations, the Supervisory Public Health Veterinarian (SPHV) observed the following incident. Establishment personnel had driven two market hogs into the cattle knock box. The SPHV and the Consumer Safety Inspector (CSI) were in a safe location when the stunning operator attempted to stun the hogs with a .17 caliber rifle while they were unrestrained. Two shots were heard (one for each pig in the box). The SPHV and the CSI re-entered the slaughter floor and noted that both hogs were recumbent on the floor and were not moving or vocalizing. The heads of the animals could not be closely observed due to their positioning. The stunning operator was not observed to check the animals for signs of consciousness. The stunning operator went to bleed the first hog while another employee bled the second hog. Upon sticking the first hog with the knife, the hog righted itself and vocalized. The hog was bleeding from the neck from the knife stick. The hog walked a few steps before becoming recumbent again. While recumbent, the hog continued to vocalize, breathe rhythmically, blink, and move its eyes. The SPHV asked the stunning operator to shoot the hog again. The stunning operator immediately retrieved the .17 caliber rifle from the knock box and rendered the animal insensible. U.S. Rejected tag B31379896 was placed on the knock box, and you and the slaughter floor manager were informed of the observations.

Upon examining the skull, the initial shot was located between the ears at the nuchal crest. The second shot was placed appropriately in the forehead at the cross section of the eyes and ears.

Previously, on June 12, 2023, the Denver District Office issued your establishment a Letter of Caution regarding several instances of documentation (Noncompliance Records or Memoranda of Information) issued for ineffective stuns followed by immediate effective corrective actions

(NRs issued on 3/28/23, 5/4/2023, and 6/6/2023; MOI issued on 12/20/2022 for ineffective stunning of a bovine slaughtered under a custom exemption).

On September 9, 2004, FSIS published "*Humane Handling and Slaughter Requirements and the Merits of a Systematic Approach to Meet Such Requirements*" in the Federal Register (69 FR 54625). On September 24, 2020, FSIS released FSIS Directive 6900.2 Revision 3, entitled, "*Humane Handling and Slaughter of Livestock*." Additionally, on October 23, 2013, FSIS introduced new guidance, titled "*FSIS Compliance Guide for a Systematic Approach to the Humane Handling of Livestock*." Within the guidance material is information intended to better ensure the humane treatment of livestock presented for slaughter. The guidance material provides a set of practices designed to minimize excitement, discomfort, and accidental injury regarding the humane handling of livestock to include the four components of a robust systematic approach to humane handling.

When an establishment maintains a robust humane handling program, FSIS can exercise regulatory discretion when an inhumane handling or slaughter incident is observed. You do not currently maintain a written humane handling program for consideration.

Summary and Conclusion

Provisions of the FMIA outline FSIS' ability to refuse to render inspection and indefinitely withdraw inspection from an establishment, provided the establishment is afforded the right to an administrative hearing, when conditions exist where the slaughter and/or handling of livestock was not by a method in accordance with the Act(s). Evidence demonstrates your failure to meet regulatory requirements addressed in 9 CFR 313.16(a)(3), constituting a violation of the humane slaughter requirements, and supporting the conclusion that your handling of livestock violated the provisions of the FMIA and HMSA.

Please provide a written response, inclusive of written corrective action and preventative measures, by addressing the following:

- Evaluate and identify the nature, cause of the incident.
- Describe the specific actions taken to eliminate the cause of the incident and prevent future recurrences.
- Describe specific monitoring activities planned to ensure future compliance.
- Provide any supporting documentation and records maintained and/or associated with the proposed corrective actions and preventative measures.

A determination of further administrative action will be made upon receipt and review of your submitted corrective actions and preventative measures. You are reminded that, as an operator of a federally inspected establishment, you are expected to comply with FSIS regulations and to take appropriate corrective actions to prevent the production of or adulterated products at your establishment. Please be advised that your failure to respond adequately to these issues may result in our initiating action to withdraw inspection from your establishment.

Appeal and Hearing Rights

Mr. Gary Baysinger, Owner
Mountain Meat Packing Inc., Est. M/P/V4979

Notice of Suspension
September 13, 2023

You have the right to appeal this matter and can do so by contacting:


William Griffin
Executive Associate for Regulatory Operations
Office of Field Operations
Food Safety and Inspection Service
United States Department of Agriculture
SB, Room 3164
1400 Independence Avenue, SW
Washington, DC 20250
Email: William.Griffin1@usda.gov
Phone: (202) 961-7156

Pursuant to 9 CFR 500.5(d), you may also request a hearing regarding this determination. Should you request a hearing, FSIS will file a complaint that will include a request for an expedited hearing. If you wish to request a hearing regarding this determination, please contact:

Scott C. Safian, Director
Enforcement Operations Staff (EOS)
Office of Investigation, Enforcement and Audit (OIEA)
Food Safety and Inspection Service
United States Department of Agriculture
Stop Code 3753, SB - Room 2148
1400 Independence Avenue, SW
Washington, DC 20250
Telephone: (202) 418-8872
Facsimile: (202) 245-5097
E-mail: AEBCorrespondence@usda.gov

If you have any questions, you can contact the Denver District Office at (303) 236-9800, via electronic mail at Denver.Districtmanagement@usda.gov, or by fax at (303) 236-9794.

Sincerely,

ROBERT REEDER  Digitally signed by ROBERT REEDER
Date: 2023.09.13 14:02:11 -06'00'

Dr. Robert Reeder
District Manager
USDA FSIS OFO
Denver District Office
Robert.Reeder@usda.gov

Mr. Gary Baysinger, Owner
Mountain Meat Packing Inc., Est. M/P/V4979

Notice of Suspension
September 13, 2023

cc: W. Griffin, EARO
R. Reeder, DM
(b) (6), Humane Handling Enforcement Coordinator
S. Baucher, OIEA Regional Director
J. VanHook, DDM
D. James, DDM
J. Monteverde, DDM
(b) (6), SEIAO
(b) (6), DVMS
(b) (6), DVMS
(b) (6), FLS
(b) (6), IIC at Est. M4979
FO/Quarterly Reports