



August 15, 2023

Blue Ridge Meats of Front Royal
M6526
2391 Guard Hill Road
Middletown, VA 22645-3957
(b) (6) @aol.com
540-636-6050

ELECTRONIC MAIL on AUGUST 15, 2023

Attention: Douglas Aylestock, 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 Blue Ridge Meats of Front Royal, M6526, located at 2391 Guard Hill Road, Middletown, VA 22645. This letter follows verbal notification of the suspension action, provided by (b) (6) CSI, to Douglas Aylestock, TITLE at approximately 0800 hours on August 15, 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 8/15/2023 at approximately 0745 hours, Inspection Program Personnel (IPP) observed the ineffective stunning of a cow. The cow had been loaded into the knock box and its head was secured in a head catch. An employee (described as a Temporary Employee/Kill Floor Stunner) attempted to stun a cow using a Jarvis .25 caliber Cylindrical Captive pistol. The shot was placed at eye level on the animal's head, and the animal tensed for a moment but remained standing, held its head down and started to bleed from its nostrils. The cow continued to stand and showed other signs of consciousness, including tracking eye movement and rhythmic breathing. The employee then turned and retrieved the .22 Magnum caliber rifle that was ready nearby and fired at the animal again. The shot was again too low and appeared to have impacted between the animal's eyes. The cow tensed and held its head down while bleeding profusely from the nostrils and open mouth. The animal continued to stand and show other signs of consciousness including rhythmic breathing and tracking eye movement. The establishment owner walked up beside the head catch and pointed with his index finger and instructed the employee to "shoot here" while pointing at the center of the animal's head between the eyes and ears. The employee then reloaded the rifle and fired again (third attempt overall), effectively rendering the animal unconscious. IPP took a regulatory control action and applied US Reject tag #B41031595 to the knock box and informed the Owner of the noncompliance. Upon postmortem inspection of the head after the hide was removed, the impact of the captive bolt was about 3" in from the outside of the left eye socket as viewed from the front. The first .22 magnum rifle shot was another 1" in from the impact hole of the captive bolt. The second 22 magnum rifle shot (third shot overall) was centered in the forehead between the eyes and ears.

This incident represents noncompliance with 9 CFR 313.15(a)(1), which states, in part: "*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.*" This incident is considered egregious because there were multiple stun attempts without an immediate corrective action and because an inexperienced employee performed the stunning operation.

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

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Blue Ridge Meats of Front Royal

Notice of Suspension
August 15, 2023

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 313.15(a)(1), 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.

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Notice of Suspension
August 15, 2023

Appeal and Hearing Rights

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

Sherri Johnson
Executive Associate for Regulatory Operations
Office of Field Operations
Food Safety and Inspection Service
United States Department of Agriculture
SB, Room 3154
1400 Independence Avenue, SW
Washington, DC 20250
Email: sherri.johnson@usda.gov
Phone: 202-379-6196

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, please contact Todd Furey via telephone at 919-326-5281 or via electronic mail at todd.furey2@usda.gov. Additionally, you can contact Raleigh District Office at 919-844-8400 or by fax at 844-839-6359.

Sincerely,

**TODD
FUREY**

Digitally signed by
TODD FUREY
Date: 2023.08.15
11:05:23 -04'00'

Todd Furey
District Manager

Douglas Aylestock, Owner
Blue Ridge Meats of Front Royal

Notice of Suspension
August 15, 2023

cc: S. Johnson, EARO/FO
L. Hortert, RD/CID/OIEA
(b) (6), HHEC/FO
T. Furey, DM/RDO/FO
R. Murphy, DDM/RDO/FO
M. Roling, DDM/RDO/FO
A. Thompson, DDM/RDO/FO
(b) (6) DCS/RDO/FO
(b) (6), DVMS/RDO/FO
(b) (6), SEIAO/RDO/FO
(b) (6), FLS/RDO/FO
(b) (6), CSI/RDO/FO
Quarterly Enforcement Report
Establishment File (Est. M6256)