



United States Department of Agriculture

Food Safety and
Inspection Service

September 29, 2020

Office of Field
Operations
Denver District Office

**SENT VIA FEDEX &
ELECTRONIC MAIL**

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

Mr. Randy Walters
Wyoming Legacy Meats, LLC M46023
74 County Road 2AB
Cody, WY 82414
randy@wyominglegacymeats.com

Voice (303) 236-9800
Fax (303) 236-9794

NOTICE OF SUSPENSION

Dear Mr. Walters,

This letter confirms the verbal notification provided to your establishment, Wyoming Legacy Meats, M46023 located in Cody, WY, on Tuesday, September 29, 2020, 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, Deputy District Manager verbally informed you of the suspension action. 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 Tuesday, September 29, 2020, the FSIS Consumer Safety Inspector (CSI) documented in a non-compliance report the following event at Est. M46023:

"On September 29, 2020 at approximately 0955 hours I observed the following Humane Handling HATS Category VIII Stunning Effectiveness noncompliance in the Stun Box: I observed an employee load a hog that was larger than normal into the Stun Box to be stunned. The employee applied the stun attempt with the hand-held captive bolt device, but the stun was ineffective and did not render the animal unconscious. The hog remained standing and was still alert. The establishment followed their robust Humane Handling Program and had a backup, loaded hand-held captive bolt device ready to be used. A second stun attempt was immediately made with the backup hand-held captive bolt device, but the stun was ineffective and did not render the animal unconscious. The hog remained standing and was still alert. The establishment had a loaded shotgun that was ready to use. An effective third stun was immediately applied utilizing the backup shotgun and rendered the animal unconscious. The dressed head was examined and three stun holes were found. The two smaller stun holes did not fully penetrate the skull.

I applied U.S. Rejected tag #B19467054 to the Stun Box. Denver District Office was contacted via supervisory channels.

Randy Walters, Plant Manager was informed verbally of this noncompliance."

Upon reviewing the events that took place, Denver District Office had elected to use regulatory discretion based on the size of the hog, the establishment's immediate corrective actions, the robust status of the humane handling program as well as the establishment's non-compliance history. The decision was made to issue an Notice of Intended Enforcement. The regulatory control was released, allowing the establishment to resume operations. Immediately upon resuming operations, the CSI documented the following non-compliance for another ineffective stun.

"On September 29, 2020 at approximately 1245 hours I observed the following Humane Handling HATS Category VIII Stunning Effectiveness noncompliance in the Stun Box:

I observed an employee load a hog into the Stun Box to be stunned. The employee applied the stun attempt with the .45 rifle, but the stun was ineffective and did not render the animal unconscious. The hog vocalized with continuous screaming and was wobbling on its side, attempting to right itself.

The establishment followed their Humane Handling Program and had a backup, 20-gauge shotgun ready to be used. An effective second stun was immediately applied utilizing the backup 20-gauge shotgun and rendered the animal unconscious.

I applied U.S. Rejected tag #B19467051 to the Stun Box.

(b) (6) *was informed verbally of this noncompliance. Denver District Office was contacted through supervisory channels.”*

Summary

The decision to suspend the assignment of inspectors at your establishment is based on these two consecutive non-compliances with 9 CFR 313.15(a)(1) and 313.16(a)(1) respectively. The decision to issue a notice of suspension was reached in order to prevent further injury or harm to the animals. While the establishment is operating under a robust systematic approach to humane handling, the two humane handling non-compliances for ineffective stunning within such a short period of time demonstrates that the plan was insufficient in preventing these occurrences.

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 are 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
USDA/FSIS/OFO
Room 3159 South Building
Washington, D.C. 20250
Tel: 207-708-9506
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, PP III, Cubicle 9-235A
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,

**VALERIE
CLAY**

Digitally signed by
VALERIE CLAY
Date: 2020.09.29
14:58:53 -06'00'

Ms. Valerie Clay
District Manager
USDA FSIS OFO
Denver District Office
Valerie.Clay@usda.gov

cc: FO/QER
Est. File
R. Reeder, DDM
S. Hoffman, DDM
J. VanHook, DDM

(b) (6)



S. Baucher, RD/OIEA