



United States Department of Agriculture

Food Safety and
Inspection Service

Office of Field
Operations
Denver District Office

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

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

March 3, 2020

**SENT VIA FEDEX &
ELECTRONIC EMAIL**

Mr. Gene Malkovsky, Owner
Malco's Buxton Meat Co., M9264
37101 SE Dunn Road
Sandy, Oregon 97055
1malco79@gmail.com

NOTICE OF SUSPENSION HELD IN ABEYANCE (NOSHA)

Dear Mr. Malkovsky,

On March 2, 2020, the Food Safety and Inspection Service (FSIS) issued your establishment, Malco's Buxton Meat Co., M9264, a Notice of Suspension (NOS). The decision to issue the NOS was made in accordance with 21 U.S.C. 603(b) and Title 9 Code of Federal Regulations (CFR) Part 500.3(b), based on your establishment's failure to comply with 9 CFR 313.30 regulations. A Memorandum of Information (MOI), written by the FSIS Supervisory Public Health Veterinarian (SPHV), documented an egregious event whereby an establishment employee ineffectively stunned a lamb three times with an electrical stunning device and then applied a fourth stun attempt with a hand-held captive bolt (HHCB) device which rendered the lamb unconscious.

On March 2, 2020, the Denver District Office (DDO) received your initial response to the NOS and corrective actions via electronic mail. The DDO requested clarification on several items in your first response, via email, on March 3, 2020. These items included clarification on training, device maintenance and monitoring. FSIS personnel received and reviewed your additional response on March 3, 2020. Based upon your proposed corrective actions FSIS will hold the suspension of inspectors at your establishment in abeyance.

The suspension will remain in abeyance pending verification by FSIS inspection personnel. During this abeyance period, FSIS will continue to verify, assess, and evaluate the effectiveness of your proffered corrective actions to ensure that these are adequately implemented, and confirm that livestock are properly handled and slaughtered humanely.

FSIS will design a verification plan to confirm that your establishment is implementing the corrective actions you provided in your response to the NOS. The verification plan identifies your corrective action plan, the relevant regulations and the frequency FSIS inspection personnel will verify the implementation and effectiveness of your proffered actions.

FSIS will provide you a copy of the verification plan. Please be advised that only FSIS can amend the verification plan. If your establishment wishes to modify your

proposed corrective actions during the abeyance period, please submit these changes, in writing, to FSIS for approval prior to making any changes in your actions.

FSIS reminds you that as an operator of a federally inspected facility, you are expected to comply with the *Federal Meat Inspection Act* (FMIA), the *Humane Methods of Slaughter Act* (HMSA) and the regulations in 9 CFR 313 to ensure livestock at your establishment are handled and slaughtered humanely. The regulations require establishments to take appropriate action(s) when either the establishment or FSIS determines that the establishment's system controls for humane handling requirements are ineffective. FSIS has the responsibility to initiate action if your establishment fails to operate in accordance with FSIS regulations.

Please be aware that your failure to comply with the regulatory requirements or effectively implement the commitments you proffered in your responses may lead to further administrative enforcement actions.

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: 2020.03.03 13:42:13 -07'00'

Valerie Clay
District Manager
FSIS Denver District Office
Valerie.Clay@usda.gov

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

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S. Baucher, RD/OIEA