



United States  
Department of  
Agriculture

Food Safety  
and Inspection  
Service

Office  
of Field  
Operations

Raleigh District Office  
6020 Six Forks Office  
Raleigh, NC 27609

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**HAND DELIVERD/ COURIER**

April 04, 2013

Mr. Jerry Matkin's  
President/General Manager  
Est. # 07975--M  
Matkin's Meat Processors, Inc.  
9683 Kerr's Chapel Rd.  
Gibsonville, NC 27240

#### **NOTICE OF SUSPENSION**

Dear Mr. Matkin's,

This letter confirms the verbal notification you were given on April 4, 2013 by the onsite Food Safety and Inspection Service (FSIS) personnel of the suspension of the assignment of inspectors for slaughter operations at Matkin's Meat Processors, Inc., Est. 07975--M, herein after referred to as "your establishment". This action was initiated, in accordance with Title 9 of the Code of Federal Regulations (CFR), part 500.3 (b), after FSIS determined that your establishment failed to handle animals humanely.

#### **Background/Authority**

The Federal Meat Inspection Act (FMIA) (21 U.S.C 603 et seq.) provides that for the purpose of preventing the inhumane slaughtering of livestock, the Secretary shall cause to be made, by inspectors appointed for that purpose, an examination and inspection of the method by which cattle, sheep, swine, goats, horses, mules, or other equines are slaughtered and handled in connection with slaughter in the slaughtering establishments inspected under this Act. The Secretary may refuse to provide inspection to a new slaughtering establishment or may cause inspection to be temporarily suspended at a slaughtering establishment if the Secretary finds that any cattle, sheep, swine, goats, horses, mules, or other equines have been slaughtered or handled in connection with slaughter at such establishment by any method not in accordance with sections 1901 to 1906 of Title 7 until the establishment furnishes assurance satisfactory to the Secretary that all slaughtering and handling in connection with slaughter of livestock shall be in accordance with such a method.

The Humane Methods of Slaughter Act of 1978 (7 U.S.C 1901 et seq.) 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.

### **Findings/Basis for Suspension**

On April 4, 2013 at approximately 8am, while performing slaughter duties and verifying Category VIII (Stunning Effectiveness), inspection personnel observed the slaughter employee drive three (3) hogs into the knocking pen. The employee used a .22 rifle to stun the animals. The first two animals were rendered unconscious on the first shot. The mis-stun occurred on the third animal. The first two shots hit the hog in the head behind the ear but did not render the animal unconscious. Inspector (b) (7)(C) observed that the pig, bleeding from both shots, was still standing, looking around the knocking pen, blinking its eyes, and licking. The employee then, grabbed the captive bolt gun and shot the hog a third time, successfully rendering the animal unconscious and insensible to pain. After further discussion with the employee conducting the stunning, it was noted that the establishment has a .22 magnum rifle to stun hogs with; however, he stated that he was out of bullets. This is a violation of section 313.16 (a)(1) The firearms shall be employed in the delivery of a bullet or projectile into the animal in accordance with this section so as to produce immediate unconsciousness in the animal by a single shot before it is shackled, hoisted, thrown, cast, or cut. The animal shall be shot in such a manner that they will be rendered unconscious with a minimum of excitement and discomfort; and 313.16 (a)(3) Immediately after the firearm is discharged and the projectile is delivered, the animal shall be in a state of complete unconsciousness and remain in this condition throughout shackling, sticking and bleeding.

This was deemed an egregious act because the animal was left conscious after the first and second stun attempt using a .22 caliber. Additionally, the plant normally stuns animals (swine) of this size with a 22 magnum but it was not in use today because, according to the stun operator, there was no ammunition available for that particular rifle. Stun mishaps in which animals are left conscious are regarded by the Agency as examples of undo pain and suffering for the animal and as such warrant the initiation of a suspension action as guided by FSIS Directive 6900.2, Rev.2, Humane Handling and Slaughter of Livestock, dated 8/15/11. Inspector (b) (7)(C) took regulatory control action (RCA) and applied U.S. Rejected Tag # #B29838032 to the knocking box. Plant owner, Mr. Jerry Matkins was verbally notified of the Notice of Suspension for the egregious humane handling violation. Because of the egregious nature of the noncompliance described herein, and the fact that your establishment does not have a comprehensive or "robust" systematic approach to its humane handling program as referenced in the aforementioned directive, 6900.2 Rev. 2, the assignment of inspectors for slaughter operations at your establishment is being suspended. The suspension action will remain in effect until such time as you provide the FSIS Raleigh District Office with adequate written assurances including corrective actions and further planned preventive measures to assure that livestock at your establishment are slaughtered humanely. In order to resume inspected operations, you must submit corrective actions to my attention at the Raleigh District Office. These corrective actions should include at a minimum the following:

1. Identify the assessment process used to determine the nature and cause of the noncompliance.
2. Identify what the assessment revealed as the likely cause of the system failure.
3. Describe the specific actions that will be taken to eliminate the cause of the failures.
4. Describe future monitoring activities you will use to ensure that changes are implemented and are effective.

### **Violation History**

To date our records show that within the past month FSIS has documented the following failure of your establishment to comply with humane slaughter and handling requirements:

- March 26, 2013, noncompliance record documenting the establishment's failure to slaughter and handle animals humanely; regarding animals not being rendered unconscious on the first shot see NR # YCA5912034426N/1.
- March 28, 2013, noncompliance record documenting the establishment's failure to slaughter and handle animals humanely; regarding animals not being rendered unconscious on the first shot see NR # YCA1009033429N/1.

The above listed occurrences should serve to remind you of your establishment's noncompliance dealing with the humane handling of your livestock. You are reminded that, as an operator of a federally inspected plant, you are expected to comply with FSIS regulations and to take appropriate corrective actions to prevent inhumane handling of livestock 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. Please also be advised that you have the right to appeal this matter.

In accordance with 9 CFR 500.5 (a) (5), you may appeal this action by contacting the:

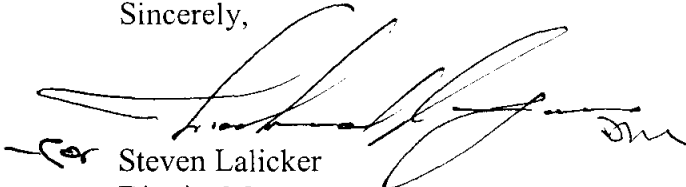
Executive Associate for Regulatory Operations  
USDA/FSIS/OFO  
Room 3157, South Agriculture Building  
1400 Independence Ave., SW  
Washington, DC 20250-3700  
Telephone: 202-720-3697  
Facsimile: 202-690-3287

In addition you may also request a hearing regarding this determination pursuant to FSIS' Rules of Practice (9 CFR 500.). The rules of Practice were published in the Federal Register, Vol. 64, No. 228, on November 29, 1999. As specified in Section 500.5(d), 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, you should contact:

Director  
Evaluation and Enforcement Division  
USDA, FSIS, OPEER  
Patriot Plaza III, 8<sup>th</sup> Floor, Cubicle 8-243A  
355 E. Street, SW  
Washington, DC 20024-3221  
Telephone: 202-418-8872  
Facsimile: 202-245-5097

It is our hope that this matter can be resolved quickly. If you have any questions, please call this office at 1-800-662-7608. We urge your cooperation and voluntary compliance.

Sincerely,

  
Steven Lalicker  
District Manager  
Raleigh, NC

SL (b) (7)(C)

cc:

M. Ramzan, DDM, RDO, OFO (via email)

M. Khan, DDM, RDO, OFO (via email)

T. Bryant, DDM, RDO, OFO (via email)

(b) (7)(C) DCS, RDO, OFO (via email)

(b) (7)(C) DVMS, RDO, OFO (via email)

(b) (7)(C) IIC Est. 07975--M (via email)

(b) (7)(C) Area Supervisor, NCDA & CS MPIO (via email)

(b) (7)(C) TA Coordinator, NCDA & CS, MPIO (via email)

Quarterly Enforcement Report (via email)

District Office Establishment File (Est. # 07975--M)