

## Simmons, Liz - FSIS

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**From:** Simmons, Liz - FSIS  
**Sent:** Monday, June 10, 2013 2:03 PM  
**To:** Engeljohn, Daniel - FSIS  
**Cc:** Kiecker, Paul - FSIS; Cornett, Julie - FSIS; Bane, Robert - FSIS; Thompson, Eric - FSIS  
**Subject:** FW: Est. 20575, Rains Natural Meats, Gallatin, MO

The letter was sent electronically to the email addresses provided by the establishment. A hard copy via UPS will follow.

Thank you,

*Liz Simmons*

Management Analyst  
USDA Food Safety and Inspection Service  
Springdale District Office  
4700 South Thompson, Ste. B-201  
Springdale, AR 72764  
Phone: (479) 751-8412  
[liz.simmons@fsis.usda.gov](mailto:liz.simmons@fsis.usda.gov)

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**From:** Simmons, Liz - FSIS  
**Sent:** Monday, June 10, 2013 2:00 PM  
**To:** [REDACTED].com'; [REDACTED].com'  
**Subject:** Letter from USDA FSIS OFO Springdale District Office



Est. 20575, Rains  
Natural Meat...

A hard copy of the attached document is being sent to you via UPS and should be delivered tomorrow, June 11<sup>th</sup>.

Thank you,

*Liz Simmons*

Management Analyst  
USDA Food Safety and Inspection Service  
Springdale District Office  
4700 South Thompson, Ste. B-201  
Springdale, AR 72764  
Phone: (479) 751-8412  
[liz.simmons@fsis.usda.gov](mailto:liz.simmons@fsis.usda.gov)



United States  
Department of  
Agriculture

Food Safety  
and Inspection  
Service

Field  
Operations

Springdale District Office  
4700 South Thompson, B-201  
Springdale, AR 72764  
(479)751-8412

June 10, 2013

Via E-mail: [REDACTED]com and  
UPS Tracking # 1Z09R6A40193989019

David Rains, President  
Rains Natural Meats, Est. 20575  
23795 260th Street  
Gallatin, MO 64640

Dear Mr. Rains:

The Food Safety and Inspection Service (FSIS) is currently reviewing your application for federal inspection services dated January 15, 2013. Section 304.2(c)(1) of the agency's regulations (9 C.F.R. § 304.2(c)(1)) requires all applicants for inspection services at an establishment where any activity thereof may result in any discharge into navigable waters as defined by the Clean Water Act (33 U.S.C. § 1251 et seq.) (CWA) to provide FSIS with a certification issued by the State in which the discharge originates that such activity will be conducted in a manner which will not violate the applicable water quality standards of the CWA.<sup>1</sup> This certification is provided for in section 401(a) of the CWA (33 U.S.C. § 1341(a)). The regulations further provide that no grant of inspection can be issued unless such certification has been obtained, or is waived because of the failure or refusal of the State to act on a request for certification within a reasonable period (which shall not exceed 1 year after receipt of such request). For further information and guidance concerning the section 401 certification process, please see: [http://water.epa.gov/lawsregs/guidance/cwa/waterquality\\_index.cfm](http://water.epa.gov/lawsregs/guidance/cwa/waterquality_index.cfm).

You may demonstrate compliance with the regulatory requirement in 9 CFR 304.2(c)(1) in one of two ways:

- (1) You may attest<sup>2</sup> that the operations at your establishment will not result in any discharge into any navigable waters. It is important to note that section 401 certification is triggered by the *potential* for a discharge; an actual discharge is not required. The attestation can be in the form of a letter to the District Office that is processing your application for inspection services. The letter must contain the following statement: "I declare that the operations conducted at my facility [insert the name and address of your facility] will not result in a discharge into any navigable waters as defined by the Clean Water Act (33 U.S.C. § 1251 et seq.)." The letter must also include the reasons why you believe that no

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<sup>1</sup> The applicable standards are found at sections 301, 302, 303, 306, and 307 of the CWA (33 U.S.C. §§ 1311, 1312, 1313, 1316, and 1317).

<sup>2</sup> In any matter involving any branch of the U.S. Government, knowingly and willfully making a materially false, fictitious, or fraudulent statement or representation, or making or using any false writing or document knowing that the same contains any materially false, fictitious, or fraudulent statement or representation, is a crime punishable by fines, imprisonment of up to five (5) years, or both, in accordance with 18 U.S.C. § 1001.

such discharge will occur. We recommend that your statement be supported by credible evidence, such as a report from a hydrologist or other qualified expert.

- (2) If you have determined that there is the potential for a discharge into any navigable waters, or if you are unable to determine whether there is such a potential, then you must contact the appropriate State agency and request a section 401 certification. You also should provide a copy of your request for State certification to the District Office that is processing your application for inspection services. If the appropriate State agency issues the requested certification, you should provide a copy of the State certification to the District Office that is processing your application for inspection, so that FSIS can complete the processing of your application for inspection services. If the State authorities refuse to act on your request for certification or fail to act upon it within one (1) year from the date that they receive your certification request, then this regulatory requirement will be waived and FSIS will resume processing your application for federal inspection.

Please be advised that if (1) you are unwilling or unable to attest that operations at your establishment will not result in any discharge into any navigable waters, or (2) you apply to the appropriate State agency for a certification and your application is denied, then FSIS will be unable to issue you a grant of federal inspection unless and until you demonstrate that you have come into compliance with all applicable clean water standards.

Sincerely,



for

Paul A. Kiecker  
District Manager