



United States Department of Agriculture

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Food Safety and  
Inspection Service

Raleigh District Office

6020 Six Forks Road  
Raleigh, NC. 27609  
Voice: 919-844-8400  
Fax: 1-844-839-6359

December 13, 2022

**EMAIL**

Mr. Michael Wagner, Owner/President  
Wagner Meats, LLC, Est. M10804  
604 North Main Street  
Mt. Airy, MD 21771

**NOTICE OF REINSTATEMENT OF SUSPENSION**

Dear Mr. Wagner,

This letter confirms the verbal notification given on December 13, 2022, at approximately 0849 hours, by the Food Safety and Inspection Service (FSIS) Inspection Program Personnel (IPP) of the reinstatement of suspension of the assignment of inspectors for slaughter operations at Wagner Meats, LLC, Est. M10804, herein after referred to as “your establishment.” This action was initiated in accordance with Title 9 of the Code of Federal Regulations (9 CFR) 500.3, after FSIS determined that your establishment failed to slaughter and handle animals humanely.

**Background/Authority**

The Federal Meat Inspection Act (FMIA) (Title 21 of the United States Code {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 methods 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 slaughtering 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 establishments by any method not in accordance with sections 1901 to 1906 of Title 7 until the establishment furnishes assurances, 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**

At approximately 0843 hours on Tuesday, December 13, 2022, at your establishment, IPP and the District Veterinary Medical Specialist (DVMS) identified an egregious humane handling noncompliance in which a hog regained consciousness after being stunned. A market hog was brought to the knock box where an employee applied an electrical stun (using the head-only stunning technique) to render the hog unconscious. After the initial contact with the electrical stunning wand, the hog dropped, and the stunning wand lost contact with the hog. The employee immediately reapplied the electrical stunning wand for an extended contact time, even though the hog displayed no signs of consciousness after the initial contact. The employee then shackled and hoisted the hog and stuck it for bleeding. As it was bleeding out, the hog dropped out of the shackle onto the floor, where it began showing signs of consciousness by attempting to stand and move away from the knock box. The hog was able to move behind the scalding equipment before other employees stopped it from getting away. The employees then pushed and pulled the hog back to the knock box, and IPP were able to visualize eye blinking and tracking eye movement. When the hog was placed back in the knock box, it continued to sit upright before the stunning employee applied a second electrical stun. This second stun rendered the hog unconscious and it continued to bleed out without further incident. IPP then took a regulatory control action by placing US Retain/Reject tag #B24794570 on the knock box gate and at approximately 0849 hours, the DVMS notified the Owner of the pending reinstatement of the enforcement action.

This incident represents a violation of 9 CFR 313.30(a)(4) which says in part “The stunned animal shall remain in a state of surgical anesthesia through shackling, sticking, and bleeding.” This incident is considered egregious because the hog regained consciousness after being effectively stunned. The establishment has a systematic approach for Humane Handling; however, it is not considered robust because the establishment is currently operating under an abeyance for a previous HH incident.

The reinstated suspension action will remain in effect until you provide the 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 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 noncompliances.
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 the future monitoring activities you will use to ensure that changes are implemented and are effective.

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:

Sherri Johnson  
Executive Associate for Regulatory Operations  
Office of Field Operations  
Food Safety and Inspection Service  
United States Department of Agriculture  
1400 Independence Avenue, SW  
South Building, Room 3154  
Washington, DC 20250  
Phone: (202) 205-0001

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:

Scott C. Safian  
Director, Enforcement Operations Staff  
Office of Investigation, Enforcement and Audit  
Food Safety and Inspection Service  
United States Department of Agriculture  
Stop Code 3753, SB - Room 2148  
1400 Independence Avenue, SW  
Washington, DC 20250  
Office: (202) 418-8872  
Fax: (202) 245-5097

It is our hope that this matter can be resolved quickly. If you have any questions, you may call me at 919-326-5281 or contact me via email at [todd.furey2@usda.gov](mailto:todd.furey2@usda.gov). You may also contact Dr. Roger Murphy, Deputy District Manager, at 919-326-5283. We urge your cooperation and voluntary compliance.

Sincerely,

**TODD  
FUREY**  
Todd Furey  
District Manager  
Raleigh, NC

Digitally signed  
by TODD FUREY  
Date: 2022.12.14  
07:55:38 -05'00'

cc:

S. Johnson, EARO/FO

P. Wolseley, EARO/FO

S. Safian, ELD/OIEA

L. Hortert, RD/CID/OIEA

T. Furey, DM/RDO/FO

R. Murphy, DDM/RDO/FO

M. Roling, DDM/RDO/FO

A. Thompson, DDM/RDO/FO



Quarterly Enforcement Report  
Establishment File (Est. M10804)