



Food Safety and  
Inspection Service

Alameda District  
800 Buchanan St.  
Albany, CA 94710

Phone: (510) 769-5712

Fax: (844) 622-0081

February 13, 2023

Mr. John Manuel Fagundes, Owner  
JMF Slaughter (Mobile Unit)  
Establishment M47369  
835 Chileno Valley Road  
Petaluma, CA 94952

*E-mail: [jmfslaughter@yahoo.com](mailto:jmfslaughter@yahoo.com)*

## **NOTICE OF SUSPENSION**

**(amended February 14, 2023)**

Dear Mr. Fagundes:

This serves as an official notification by the Food Safety and Inspection Service (FSIS), Alameda District, of the withholding of the marks of inspection and suspension of the assignment of inspectors for the Slaughter operations in accordance with 21 U.S.C. 603 and Title 9 Code of Federal Regulations (CFR) Part 500.3 (b). This action is initiated due to your firm's failure to maintain or implement required controls to prevent the inhumane handling and slaughter of livestock in connection with slaughter at your establishment, and failure to appropriately stun an animal prior to slaughter in accordance with Title 9 CFR Part 313.15(a)(1). This is a noncompliance with 21 U.S.C. 603(b) of the Federal Meat Inspection Act, the Humane Methods of Slaughter Act of 1978, and the regulations promulgated thereunder.

### **Background/ Authority**

The Federal Meat Inspection Act (FMIA) (21 USC 603 et seq.) provides for the purpose of preventing the inhumane slaughtering of livestock that FSIS has the authority, as designated by the Secretary of the Department of Agriculture, to prescribe rules and regulations describing examine and inspect 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 the Act. FSIS may refuse to provide inspection to a new slaughtering establishment or may cause inspection to be temporarily suspended at a slaughter 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 establishment by any method not in accordance with sections 1901 to 1906 of U.S.C. Title 7 until the establishment furnishes assurances satisfactory to FSIS that all slaughtering and handling in connection with the slaughter of livestock shall be in accordance with such a method.

Under the authorities of the Act, FSIS has prescribed rules and regulations required for the humane slaughtering of livestock, as contained in Title 9 CFR Part 313, and the Humane Methods of Slaughter Act of 1978. FSIS has also developed Rules of Practice regarding

enforcement prescribed in Title 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.

### **Findings/Basis for Action**

On February 13, 2023, the Consumer Safety Inspector (CSI) observed your establishment's failure to conduct slaughter of livestock in accordance with the regulatory requirements. At approximately 0833 hours, while in the mobile slaughter unit, the CSI heard a hog vocalizing with grunting after your establishment fired a captive bolt. When the CSI went outside and approached the knock box, the CSI observed the hog had a hole in the middle of its head and was standing upright and still. The hog was breathing normally and had normal eye movement.

The CSI observed (b) (6), preparing to use the backup captive bolt. (b) (6) stated that he had effectively used the stunner, but the animal had remained standing. (b) (6) called you for assistance as the hog began to act aggressively and was dodging the employee's attempts to stun it. As (b) (6) restrained the animal inside the knock box, you applied a second stun which rendered the animal unconscious. Three minutes had already passed since the first stunning attempt. Due to these observations, the CSI discussed with the Supervisory Public Health Veterinarian (SPHV) and applied U.S. Rejected tag # B-45136918 to the knock box. The CSI notified you of the noncompliance and that no further stunning would be allowed due to the inhumane handling of livestock.

Afterwards, the SPHV examined the head using a probing tool and observed two holes located closely together, with one of the holes not penetrating the brain.

This is an egregious act of inhumane handling of animals in connection with slaughter, as your establishment failed to effectively stun an adult hog so that it was immediately unconscious on the first stun attempt. Your establishment does not currently have a Robust Systematic Approach for humane handling and slaughter of livestock.

This is a violation of Title 9 CFR 313.15(a)(1), which states, "*The captive bolt stunners shall be applied to the livestock in accordance with this section so as to produce immediate unconsciousness in the animals before they are shackled, hoisted, thrown, cast, or cut. The animals shall be stunned in such a manner that they will be rendered unconscious with a minimum of excitement and discomfort.*" This constitutes failure to adhere to the regulatory requirements of the humane handling and slaughter of livestock, as required by the Federal Meat Inspection Act, 21 U.S.C. 603(b), the Humane Methods of Slaughter Act, and the regulations promulgated thereunder.

The Federal Meat Inspection Act 21 U.S.C. Section 603(b) provides legal authority to suspend operations at any establishment where animals have not been handled in a humane manner as described in 7 U.S.C. 1901 where it states, "*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.*" In accordance with Title 9 CFR

500.3(b), the suspension of inspection at an establishment without prior notification for inhumane handling practices is warranted, as specified in Title 9 CFR 313 and under authority of 21 U.S.C. 621.

These findings demonstrate your failure to adhere to the regulatory requirements of the humane handling and slaughter of livestock, as required by the Federal Meat Inspection Act, 21 U.S.C. 603(b) and the Humane Methods of Slaughter Act, and the regulations promulgated thereunder.

Based on the above findings and your failure to meet statutory and regulatory requirements for the humane handling and slaughter of livestock, and in accordance with Title 9 CFR 500.3(b), FSIS is suspending the assignment of inspectors and withholding the marks of inspection for the slaughter operations at your establishment. This letter confirms the verbal notification of the suspension of the assignment of inspectors for the slaughter operations that FSIS provided to your establishment on February 13, 2023.

The suspension of the assignment of inspectors will remain in effect until such time as you can proffer to the FSIS, Alameda District Office, adequate written assurances including corrective actions and preventative measures to assure that livestock at your establishment are handled and slaughtered humanely, in accordance with the FMIA, The Humane Methods of Slaughter Act, and regulations promulgated thereunder.

In addition, failure to respond to this Notice of Suspension and failure to assure that animals at your establishment are handled and slaughtered humanely in accordance with the statutory and regulatory requirements may result in further administrative enforcement actions.

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

Sherrri N. Johnson  
Executive Associate for Regulatory Operations  
Office of Field Operations  
Food Safety and Inspection Service  
United States Department of Agriculture  
1400 Independence Avenue, SW  
SB, Room 1330A  
Washington, DC 20250  
Phone: (202) 379-6196

In accordance with Title 9 CFR 500.5(d), you may request a hearing concerning this action by contacting:

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  
Voice: (202) 418-8872  
Fax: (202) 245-5097

If you have any questions, wish to further discuss this matter or wish to submit any proposals please contact the Alameda District Office at (510) 769-5712.

Sincerely,

*/s/ Frank Gillis*  
*Deputy District Manager*  
*(for)*

William Griffin  
District Manager

cc:

V. Felix, DDM

F. Gillis, DDM

G. Abreu, DDM

(b) (6), Acting FLS

(b) (6), SEIAO

(b) (6), DCS

(b) (6), EIAO

S. Johnson, EARO

S. Baucher, IEA, RD

USDA, IIC, Est. M47369

FO/QR