



United States Department of Agriculture

---

Food Safety and  
Inspection Service

Alameda District  
800 Buchanan St.  
Albany, CA 94710

Phone: (510) 769-5712

Fax: (844) 622-0081

December 5, 2022

Mr. David Evans, Co-Executive Officer  
Marin Sun Farms Inc.  
Establishment M48087  
1522 Petaluma Blvd. North  
Petaluma, CA 94952

E-mail: [david@marinsunfarms.com](mailto:david@marinsunfarms.com)

## NOTICE OF INTENDED ENFORCEMENT

Dear Mr. Evans:

This serves as an official notification by the Food Safety and Inspection Service (FSIS), Alameda District, of our intent to withhold the marks of inspection and suspend 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 was initiated due to your firm's failure to maintain or implement required controls to prevent the inhumane handling and slaughtering of livestock at your establishment and to appropriately handle animals in accordance with Title 9 CFR 313.30(a)(4). This is in violation of 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.

You are required to respond to this notice adequately, in writing, addressing the regulatory noncompliance in this notice. Failure to respond adequately within three (3) business days from the date of receipt of this notice may result in the suspension of the assignment of inspectors at your establishment. FSIS will evaluate your response and will determine if any further administrative enforcement action will be necessary.

### **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 December 5, 2022, the FSIS Supervisory Public Health Veterinarian (SPHV) observed your establishment's failure to conduct slaughter of livestock in accordance with the regulatory requirements. At approximately 0655 hours, the SPHV heard a hog vocalizing with high pitched squealing. The SPHV approached the swine stunning area and observed a stunning employee with a knife in hand while holding the ear of a market hog that was shackled and hoisted. The hog had already undergone sticking as the SPHV observed it bleeding. The outside holding pens were closed. The hog was exhibiting a slight righting reflex and moving vigorously back and forth. Its legs were also moving. The squealing then stopped approximately fifteen seconds after the SPHV heard the initial vocalization. These observations indicate the animal did not remain in a state of surgical anesthesia through shackling, sticking, and bleeding.

The SPHV informed (b) (6), and (b) (6) of this incident and that no further slaughter would be allowed due to the inhumane handling of livestock. The SPHV placed U.S. Rejected Tag No. B19890506 so no further slaughter could occur.

This is an egregious noncompliance of inhumane handling of animals in connection with slaughter. This is a violation in accordance with Title 9 CFR 313.30(a)(4) which states: "*The stunned animal shall remain in a state of surgical anesthesia through shackling, sticking, and bleeding.*" 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.

On September 9, 2004, FSIS published "*Humane Handling and Slaughter Requirements and the Merits of a Systematic Approach to Meet Such Requirements*" in the Federal Register Notice (54 Fed. Reg. 54625). On September 24, 2020, FSIS released FSIS Directive 6900.2 Revision 3, entitled, "*Humane Handling and Slaughter of Livestock.*" Additionally, on October 23, 2013, FSIS introduced new guidance, titled "*FSIS Compliance Guide for a Systematic Approach to the Humane Handling of Livestock*" within the guidance material intended to better ensure the humane treatment of livestock presented for slaughter. The compliance guide provides a set of practices designed to minimize excitement, discomfort and accidental injury of livestock. These documents describe the four components of a robust systematic approach to humane handling. The decision to issue a Notice of Intended Enforcement (NOIE) in lieu of a Notice of Suspension (NOS) is based on your establishment implementing and maintaining a robust systematic approach to humane handling.

Please provide this office with a written response to this NOIE within three (3) working days from the date of your receipt of this letter. We will determine further action, if any, based on your response. In addition, failure to respond to this NOIE and failure to assure that you handle and slaughter animals at your establishment 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:

Sherri 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

If you have any questions, 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

A. Ahmed, Acting DDM

(b) (6)

S. Johnson, EARO  
S. Baucher, IEA, RD

USDA, IIC, Est. M48087  
FO/QR