



Food Safety and  
Inspection Service

Alameda District  
800 Buchanan St.  
Albany, CA 94710

Phone: (510) 769-5712

Fax: (844) 622-0081

July 13, 2022

Dr. Samuel Garcia, Manager  
University of Arizona  
Food Products and Safety Laboratory  
Establishment M966  
4181 North Campbell Avenue  
Tucson, AZ 85719

**CERTIFIED RETURN  
RECEIPT REQUESTED**

*E-mail: [srgarcia@arizona.edu](mailto:srgarcia@arizona.edu)*

## NOTICE OF SUSPENSION

Dear Dr. Garcia,

This letter confirms the verbal notification that was provided to your establishment on July 13, 2022, by the Food Safety and Inspection Service (FSIS), Alameda District, of the suspension of the assignment of inspectors for the Slaughter operations at your establishment 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 recurring failure to maintain or implement required controls to prevent the inhumane handling and slaughter of livestock in connection with slaughter at your establishment, and 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.

These observations indicate that the corrective actions and preventive measures you proffered in response to the Notice of Intended Enforcement (NOIE) issued on January 26, 2022, which was also issued for similar incidents of inhumane handling, were ineffective and/or not implemented to ensure that your establishment adheres to the regulatory requirements of the humane handling and slaughter of livestock.

### **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 July 13, 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 1126 hours, while inspecting a beef carcass, the SPHV heard the handheld captive bolt gun discharge, then heard vocalization from a goat in the small livestock restrainer. The SPHV turned around from the inspection station and observed an establishment employee fidgeting with the captive bolt gun. Another employee came in from outside and took the captive bolt gun from the first employee, loaded the captive bolt gun, and attempted to stun the goat a second time. The SPHV walked up to the small livestock restrainer and observed the second employee reloading the captive bolt gun again. When the SPHV asked the employee if he was going to stun the animal again, the employee responded that he did not know. Upon viewing the animal, the goat had very large horns that were set back on the poll of the skull and the head was faced down. The SPHV asked the employee if the animal was stunned. The employee lifted the goat's head up, and the SPHV waved their hand in front of the goat and observed eye tracking. This demonstrated that the goat was still conscious. The SPHV stated to the employees that they needed to render the goat unconscious.

The second establishment employee stated that he could not get the captive bolt gun to fire behind the horns and asked if it would be acceptable to shoot the goat in between the horns. The SPHV stated that FSIS could not make that decision for him, but that the animal needed to be stunned immediately. The employee lifted the goat's head and fired the captive bolt gun in between the horns. This third stun rendered the animal unconscious.

Upon examination of the skinned head, the SPHV observed three holes on the forehead of the skull and between the horns. One forehead hole was approximately one inch below the base of the horns at the top of the skull, and did not penetrate the brain. A second forehead hole was located adjacent to the first hole but closer to the base of the horns, and also did not penetrate the brain. The posterior hole, which was the third stunning attempt, did penetrate the brain.

This is an egregious noncompliance of inhumane handling of animals in connection with slaughter, as this animal was not rendered insensible upon the initial knock, and the immediate corrective actions including additional stunning blows did not render the animal unconscious.

until the animal was effectively knocked. This is a violation in accordance with Title 9 CFR 313.15(a)(1) which states in part: *“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.”* 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 SPHV informed you, Dr. Samuel Garcia, Manager, that the restrainer would be tagged for failure to effectively stun the animal on the first attempt. The SPHV applied U.S. Rejected tag #B45644737 on the small livestock restrainer.

Previously, on January 26, 2022, the Alameda District Office (ADO) notified your establishment 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 313.15(a)(1). 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.

On January 26, 2022, your establishment submitted corrective actions in response to the NOIE issued on that date. Based on all the commitments you proffered, FSIS decided to place the NOIE in Deferral on January 27, 2022, and provided you a copy of the Verification Plan that FSIS inspection program personnel used to verify that your establishment fully implemented and followed the corrective actions and preventive measures your establishment provided to the ADO. As stated in the Letter of Deferral dated January 28, 2022, your establishment’s failure to comply with regulatory requirements or effectively implement your commitments and agreements, may result in further enforcement actions taken, including the suspension of inspection services in your establishment. The recent incident of inhumane handling demonstrates your corrective actions and preventive measures have been ineffective and/or not implemented to ensure that your establishment adheres to the regulatory requirements of the humane handling and slaughter of livestock.

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 July 13, 2022.

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:

Sherril 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, PP3, Cubicle 9-235A  
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:

A. Amin, DDM

V. Felix, DDM

F. Gillis, DDM

G. Abreu, Acting DDM

**(b) (6)**

S. Johnson, EARO

S. Baucher, IEA, RD

USDA IIC, Est. 966 M

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