



United States Department of Agriculture

Food Safety and
Inspection Service

Certified Mail

Office of Field
Operations

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August 24, 2022

Mr. David Gregerson, Plant Manager
FPL Food, Est. M332
1301 New Savannah Road
Augusta, GA 30901

NOTICE OF SUSPENSION

Dear Mr. Gregerson,

This serves as official notification by the Food Safety and Inspection Service (FSIS) to withhold the marks of inspection and suspend the assignment of slaughter inspection personnel for your slaughter program at FPL Food, Est. M332, located at 1301 New Savannah Road Augusta, GA 30901.

Background Authority

The Federal Meat Inspection Act (FMIA) [21 U.S.C. 603] provides that it is essential that livestock be handled with minimum of excitement and discomfort during holding and slaughtering. Section 3 (b) of the Federal Meat Inspection Act states, *“For the purpose of preventing the inhumane slaughtering of livestock, the Secretary shall cause to be made, by inspectors appointed for the purpose, an examination and inspection of 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 this Act. The Secretary may refuse to provide inspection to a new slaughtering establishment or may cause inspection to be temporarily suspended at a slaughtering establishment if the Secretary finds that any cattle, sheep, swine, goats, horses, mules, or other equine have been slaughtered or handled in connection with slaughter at such establishment by any method not in accordance with sections 1901 to 1906 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.”*

Furthermore, the FMIA provides FSIS the authority to appoint inspectors to examine and inspect the method by which livestock are slaughtered and handled at slaughtering establishments. It also gives FSIS program personnel the right to examine and inspect carcasses and parts of carcasses that are further treated and prepared and the right to access and examine establishment records. When conditions exist concerning the slaughtering and handling of livestock, not by a method in accordance to sections 1901 to 1906 of Title 7, FSIS can refuse to render inspection and indefinitely withdraw inspection from an establishment, provided the establishment is afforded the right to an administrative hearing.

Under the authority of the Act, FSIS has prescribed rules and regulations required for establishments slaughtering and handling livestock according to 9 CFR 313 et seq. FSIS has also developed the Rules of Practice regarding administrative enforcement, 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, and for filing a complaint to withdraw a grant of inspection.

Basis for Action

This Suspension is based upon your establishment being in violation of 9 CFR 313.15(a)(1) and 9 CFR 315.15(a)(3).

9 CFR 313.15(a) states: *Application of stunners, required effect; handling. (1) 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.*

9 CFR 313.15(a)(3) states: *Application of stunners, required effect; handling. (3) Immediately after the stunning blow is delivered the animals shall be in a state of complete unconsciousness and remain in this condition throughout shackling, sticking and bleeding.*

Specifically, on August 24, 2022, at 1015 hours, while performing humane handling verification activities in the unloading area, Inspection Program Personnel (IPP) observed the following: A gooseneck trailer carrying mature Holstein cows was backed up to the unloading dock. The three (3) cows on the back of the trailer were laying on their sides, with one Holstein having her neck and head pinned down by a cow on top of her. Due to the size and position of the cows in relationship to the narrowness of the trailer, the cows were unable to move. A barn employee stunned one of the cows with a hand-held captive bolt, applied a second stun with the same captive bolt, and then stuck the cow to bleed it out. Hardly any blood trickled out of the jugular vein. The cow was shackled and dragged off the trailer with a forklift about fifteen (15) feet. The cow then righted itself into sternal recumbency, the eyes were blinking, she had rhythmic breathing, tracking eye

movement, and was moving its head from side to side. The cow did not vocalize. The plant employees did nothing to render the cow unconscious until IPP notified them the cow was conscious, and then they stunned the cow with the hand-held captive bolt and effectively rendered it unconscious. Establishment management was notified of the noncompliance. IPP took a regulatory control action by tagging the knock-box with Reject Tag B41502407. On postmortem, the head was skinned, and three distinct points of entry were identified. The establishment has a Robust Systemic Approach for humane handling of livestock, but it was not effectively implemented to prevent the noncompliance.

In accordance with 9 CFR Part 500, the suspension of the assignment of inspectors from your establishment's slaughter operations shall remain in effect until such time you provide adequate written assurances of corrective and preventive measures sufficient to assure that livestock are handled and slaughtered with minimal discomfort. These corrective actions and preventive measures should include at a minimum:

- 1) Identify the assessment process used to determine the nature and cause of the incident.
- 2) Identify what the assessment revealed as the likely cause, i.e., the specific reason(s) why the event occurred.
- 3) Describe the specific actions that will be taken to eliminate the cause of the incident.
- 4) Describe the specific actions that will be taken to prevent future reoccurrences.
- 5) Describe the future monitoring activities that your establishment will use to ensure that the actions are effective.

As a federally inspected establishment, you are expected to comply with the Humane Methods of Slaughter Act and all applicable FSIS regulations. Establishment personnel should continue to monitor operations to prevent humane handling failures from occurring in the future and maintain process control.

You may appeal this determination to:

U.S. Department of Agriculture Food Safety and Inspection Service
Attention: Melissa Moore
Executive Associate for Regulatory Operations
1400 Independence Avenue SW
Room 344-E, Whitten Building
Washington, DC 20250

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

Physical Address: Scott C. Safian
(For Courier) 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

or

Mailing Address: 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

If you have any questions, please contact the Atlanta District Office at (404) 562-5900.

Sincerely,

PHYLLIS Digitally signed by
PHYLLIS ADAMS
ADAMS Date: 2022.08.25
09:52:36 -04'00'

Dr. Phyllis Adams
District Manager

cc: Philip Bronstein, AA/OFO
Hany Sidrak, DAA/OFO
Melissa Moore, EARO/OFO
Scott Safian, EOS/OIEA
Larry Hortert, RD/CID/OIEA

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Barney Welch, DDM/OFO
Tracy Bryant, DDM/OFO

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