



United States Department of Agriculture

Food Safety and  
Inspection Service

Office of Field  
Operations

Atlanta District Office

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Atlanta, GA. 30303  
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800-282-2005

**Certified Mail**

September 10, 2019

Ms. Jennifer McAbee, Owner  
Foster's Meats, Inc  
Est. M46081  
143 Christopher St.  
Duncan, SC 29334

## **NOTICE OF REINSTATEMENT OF SUSPENSION**

Dear Ms. McAbee:

This serves as official notification by Food Safety and Inspection Service (FSIS) of the Notice of Reinstatement of Suspension at Foster's Meats Inc., M46081, located at 143 Christopher St. Duncan, SC 29334. This Reinstatement of Suspension is based on the failure of Foster's Meats Inc., Est. M46081, to humanely and effectively handle livestock according to 9 CFR Part 313. Effective September 10, 2019, FSIS is withholding the marks of inspection and suspending the assignment of livestock slaughter inspection program personnel at Foster's Meats Inc., M46081, located at 143 Christopher St. Duncan, SC 29334.

### **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*

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*the Secretary that all slaughtering and handling in connection with slaughter of livestock shall be in accordance with such a method.*

Furthermore, the Act 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 of 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**

On August 22, 2019, FSIS issued a Notice of Suspension to your establishment because you failed to consistently handle and slaughter animals humanely in accordance with 9 CFR Part 313.

On August 30, 2019, FSIS issued a Notice of Suspension Held in Abeyance and allowed operations to resume based on your proffered corrective action and preventive measures submitted on August 27, 2019. The causes of the incident on August 22, 2019 was determined to be due to the improper shot placement of a 9mm handgun when stunning the animal, using the wrong caliber of hand gun and removing the hog too quickly from the stunning restraints. Your preventive measure in response to these causes, submitted on August 27, 2019, included retraining establishment personnel in proper shot placement, replacing the 9mm caliber hand gun with a .357 or a .45 caliber hand gun, using a security knock on all pork and beef, not releasing the animal (s) from the restraining device until a security knock is applied and installing a tarp over the stun chute to help calm the animal.

On September 10, 2019, at 9:05 hours, while performing humane handling verification activities, Inspection Program Personnel (IPP) at Fosters Meats, Establishment M46081, observed that it took four shots with two different firearms to effectively render a hog unconscious. IPP observed the following on September 10, 2019: *The employee at Est. M46081 that does the stunning had a hog restrained in the knocking box and the hog*

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*was on the wooden head block, which was a restraining device designed by the establishment. The employee conducted the first stunning shot on the hog, which was a shot to the hog's skull, with a .45 caliber handgun and the hog's front legs went to the floor pavement with the back legs still up. The employee then proceeded and conducted a second stunning shot at the hog's skull. The employees opened the knocking box and pulled the hog out of the knocking box as the hog was laying on its side. When this occurred, the hog got up and walked approximately 25 feet in circle motion and its eyes were open and head moving from side to side. The employee then performed a third stunning shot on the hog at the skull with a .45 caliber handgun and the hog sat on all four hoofs and was blinking its eyes. The hog's eyes were wide open and moving head somewhat and still alive. The employee then continued to perform a fourth stunning shot and shot the hog in the skull a fourth time with a 9mm caliber handgun and the hog then fell to the pavement on the slaughter floor and was rendered unconscious. After examining the hog's skull at postmortem, it was observed that there were 4 bullet holes in the skull of the hog. The hog was cleared from the slaughter floor and the knocking box was rejected with regulatory control action tag # B37426529.*

Use of the 9mm handgun was not in line with the preventive measure you proffered for the August 30, 2019 Suspension Held in Abeyance. Furthermore, the above events support that your proposed preventive measures were not implemented and are ineffective.

This Reinstatement of Suspension is based on your establishment's failure to implement effective corrective and preventive measures as outline in the Notice of Suspension Held in Abeyance dated August 30, 2019, and violation of 9 CFR § 313.16(a)(1) which is promulgated from the Federal Meat Inspection Act [21 U.S.C. 603] Section 10, which states, in part "*No person, firm, or corporation shall, with respect to any cattle, sheep, swine, goats, horses, mules, and other equines, or any carcasses, parts of carcasses, meat or meat food products of any such animals-(b) slaughter or handle in connection with slaughter any such animals in any manner not in accordance with sections 1901 to 1906 of title 7.*"

In accordance with 9 CFR Part 500, the reinstatement of suspension of the assignment of inspectors from your establishment's livestock slaughter operation shall remain in effect until you provide adequate written assurances of effective corrective actions and preventive measures sufficient to assure that livestock are handled and slaughtered within the prescribed rules and regulations required for establishments slaughtering and handling of livestock in accordance with 9 CFR §313 et seq. 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.

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- 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 fully comply with 9 CFR §313.16 and all other requirements concerning the humane slaughter of livestock. In accordance with 9 CFR §500.3(b), we are reinstating the suspension of the assignment of livestock slaughter inspectors at Fosters Meats, Inc., M46081, for inhumane handling.

You may appeal this action by contacting:

U.S. Department of Agriculture  
Food Safety and Inspection Service  
Attention: Michael Watts, 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:

Mailing Address:                      Scott C. Safian, Director  
   Enforcement and Litigation Division  
   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

Or

Physical Address:                      Scott C. Safian, Director  
(For courier)                            Enforcement and Litigation Division  
   Office of Investigation, Enforcement and Audit  
   Food Safety and Inspection Service

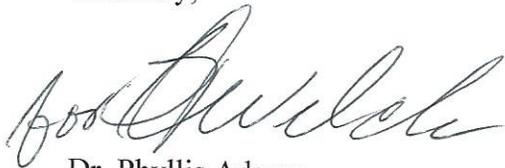
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United States Department of Agriculture  
Patriots Plaza III, 9th Floor, Cubicle 9-235A  
355 E Street, SW  
Washington, DC 20024-3221  
Voice: (202) 418-8872  
Fax: (202) 245-5097

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

Sincerely,



Dr. Phyllis Adams  
District Manager

cc: Phil Bronstein, AA/OFO  
Hany Sidrak, DAA/OFO  
Michael Watts, EARO/OFO  
Scott Safian, ELD/OIEA  
Larry Hortert, RD/CID/OIEA

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

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