



United States Department of Agriculture

Food Safety and
Inspection Service

Office of Field
Operations

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800-282-7005

Certified Mail

January 31, 2020

Mr. François Leger, Owner
FPL Food, Est. M332
1301 New Savannah Road
Augusta, GA 30901

NOTICE OF SUSPENSION

Dear Mr. Leger,

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

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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 313.2(a) and 9 CFR 313.15(a)(2).

9 CFR 313.2 (a) states: *Driving of livestock from the unloading ramps to the holding pens and from the holding pens to the stunning area shall be done with a minimum of excitement and discomfort to the animals. Livestock shall not be forced to move faster than a normal walking speed.*

9 CFR 313.15(a)(2) states: *The driving of the animals to the stunning area shall be done with a minimum of excitement and discomfort to the animals. Delivery of calm animals to the stunning areas is essential since accurate placement of stunning equipment is difficult on nervous or injured animals.*

Specifically, on January 31, 2020 at 1600 hours, while performing humane handling verification activities in the knock box area Inspection Program Personnel (IPP) observed the following: As a cow was entering the knock box/restrainer, the establishment failed to adjust the side panels to the size of the animal which allowed the cow to fall off of the brisket conveyor and to one side of the brisket conveyer. As a result, the cow was wedged in an area that would only allow the head and front shoulders to pass but would not allow the hips of the cow to pass. This caused the cow to be inverted with its head 4 feet below the rest of the body. At the same time, another large bovine was traveling on the brisket conveyer further forcing the trapped cow into an opening not wide enough for the hips of the cow to pass causing the hips of the cow to be forced into the narrow opening. The front half of the larger bovine was on top of the trapped cows' hind legs causing the legs of the trapped cow to be crushed between the brisket conveyer and the larger bovine. Because of the design of the restrainer and the location of the cows' head, the establishment was not able to immediately knock the cow and it remained in this position for several minutes before the cow could be stunned and bled out. A regulatory

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control action was taken by tagging the knock box with "U.S. Rejected" tag number B37590645.

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: 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:

Physical Address:
(For courier)

Scott C. Safian, Director
Enforcement and Litigation Division
Office of Investigation, Enforcement and Audit
Food Safety and Inspection Service
United States Department of Agriculture

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Patriots Plaza III, 9th Floor, Cubicle 9-235A
355 E Street, SW
Washington, DC 20024-3221

or

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

Telephone: (202) 418-8872
Fax Number: 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: Phillip Bronstein, AA/OFO
Hany Sidrak, DAA/OFO
Michael Watts, EARO/OFO
Scott Safian, ELD/OIEA
Larry Hortert, RD/CID/OIEA
(b) (6)
Ghias Mughal, DDM/OFO
Tracy Bryant, DDM/OFO
Barney Welch, DDM/OFO

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