



United States Department of Agriculture

Food Safety and
Inspection Service

Office of Field
Operations

Atlanta District Office
100 Alabama St., SW.
Suite 3R90
Atlanta, GA. 30303
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Toll Free:
800-282 7005

August 11, 2020

Ms. Leigh Ann Cason, Plant Manager
Fries Frozen Foods, LLC, Est. M46622
846 S. Grey Street
Millen, GA 30442

Certified Mail
7019 1120 0001 8314 2532

NOTICE OF SUSPENSION

Dear Ms. Cason,

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 Fries Frozen Foods, LLC, Est. 46622, located at 846 S. Grey Street Millen, GA 30442.

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

NOTICE OF SUSPENSION

Ms. Leigh Ann Cason, Plant Manager
Fries Frozen Foods, LLC, Est. M46622
August 11, 2020

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 313.16(a)(1) & (3).

9 CFR 313.16(a) states: *Utilization of firearms, required effect; handling.*

(1) *The firearms shall be employed in the delivery of a bullet or projectile into the animal in accordance with this section so as to produce immediate unconsciousness in the animal by a single shot before it is shackled, hoisted, thrown, cast, or cut. The animal shall be shot in such a manner that they will be rendered unconscious with a minimum of excitement and discomfort.*

(3) *Immediately after the firearm is discharged and the projectile is delivered, the animal shall be in a state of complete unconsciousness and remain in this condition throughout shackling, sticking, and bleeding.*

Specifically, on August 11, 2020 at 0815 hours, Inspection Program Personnel (IPP) were performing antemortem inspection and humane handling evaluation and observed the following: When plant staff was attempting to move a steer from the holding pens through the alleyway to the knock box, while in the alley, the steer kicked and hit a pen gate which swung into the hand of an employee, injuring his hand. The employee held arm to his chest, there was an obvious injury to the hand with swelling and bleeding. Shortly thereafter, a second employee was able to move a different steer into the knock box. The injured employee proceeded to stun the animal using the establishment's primary .22 long rifle. The injured employee fired the initial shot, but the animal was not rendered unconscious and remained standing. The steer was standing with blood exuding from the initial point of entry in its head and had blood coming out of both nares. There was little to no vocalization, but the animal was fully conscious. At that point, the injured employee said that he could not "do this" (because of his injury) and left the kill

NOTICE OF SUSPENSION

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Fries Frozen Foods, LLC, Est. M46622
August 11, 2020

floor. Approximately three (3) minutes passed (IPP activated a stopwatch) before the second employee entered the kill floor from the antemortem pens to shoot the animal. The second employee shot and the animal was effectively stunned and rendered unconscious on the second shot. A third security shot occurred after the animal was unconscious. The knock box was immediately tagged (#B37 061148) and stunning operations were ceased until further notice. Post-mortem examination of the skinned head revealed three (3) distinct points of entry into the skull of the animal.

The establishment has a robust systematic approach to humane handling of livestock; however, it was determined to be inadequate at the time of the event because it did not prevent the unnecessary pain and suffering to the animal.

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 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.
- 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 (EARO)
1400 Independence Avenue SW

NOTICE OF SUSPENSION

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August 11, 2020

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, Director
(For courier) Enforcement and Litigation Division
Office of Investigation, Enforcement and Audit
Food Safety and Inspection Service
United States Department of Agriculture
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, PP III, 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
Atlanta District

cc: Phillip Bronstein, AA/OFO
Hany Sidrak, DAA/OFO
Michael Watts, EARO/OFO

NOTICE OF SUSPENSION

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Fries Frozen Foods, LLC, Est. M46622
August 11, 2020

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

(b) (6)