



United States Department of Agriculture

Food Safety and
Inspection Service

November 6, 2020

Signed copy hand-delivered

Office of Field
Operations
Des Moines District
Office

(b) (6)
Sioux-Preme Packing Co.
4241 US 75 Ave
Sioux Center, IA 51250

Neal Smith Federal
Building
210 Walnut Street
Room 985
Des Moines, IA
50309-2123

NOTICE OF INTENDED ENFORCEMENT

Dear, (b) (6) :

Voice 515.727.8960
Fax 515.727.8991

This letter confirms verbal notification by the Des Moines District Office, Food Safety and Inspection Service (FSIS) on November 5, 2020, of our intent to withhold the marks of inspection and suspend the assignment of inspection program personnel (IPP) at Establishment M5537, Sioux-Preme Packing Co., herein referred to as the/your establishment. This action is taken in accordance with the Rules of Practice, 9 CFR 500.3(b), which indicates that FSIS may take a withholding action or impose a suspension without providing an establishment prior notification if it is handling or slaughtering animals inhumanely such as occurred at your establishment on November 5, 2020.

Background

The *Federal Meat Inspection Act* (FMIA) (Title 21 of the United States Code {21 U.S.C.} 603 et seq.) provides that for the purpose of preventing the inhumane slaughtering of livestock, the Secretary shall cause to be made, by inspectors appointed for that purpose, an examination and inspection of the methods 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 slaughtering to be temporarily suspended at a slaughtering establishment if the Secretary finds that any cattle, sheep, swine, goats, horses, mules, or other equines have been slaughtered or handled in connection with slaughter at such establishments by any method not in accordance with sections 1901 to 1906 of Title 7 of the *Humane Methods of Slaughter Act* (HMSA) until the establishment furnishes assurances, satisfactory to the Secretary, that all Slaughtering and handling in connection with livestock shall be in accordance with such a method.

The HMSA of 1978 (7 U.S.C. 1901 et seq.) states that Congress finds that the use of humane methods in the slaughter of livestock prevents needless suffering; results in safer and better working conditions for persons engaged in the slaughtering industry; brings about improvement of products and economies in slaughtering operations; and produces other benefits for producers, processors, and consumers which tend to expedite an orderly flow of livestock and livestock products in interstate and foreign commerce.

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 HMSA. 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 November 5, 2020, at 1400 hours, while performing HATS Category IV - Antemortem Inspection, inspection program personnel (IPP), observed noncompliance with HATS Category VIII – Stunning Effectiveness. There were two pigs laying in the alleyway that would not get up. The rest of the pigs from the pen had already been moved to the Butina. One of the establishment employees arrived with a hand-held captive bolt device. IPP observed the establishment Butina employee load the hand-held captive bolt device and attempt to stun one of the pigs without restraint. The first stun attempt resulted in a conscious excited pig. Immediately, the establishment employee grabbed a second pre-loaded hand-held captive bolt device and attempted a second stun. The second stun attempt resulted in a conscious pig and IPP observed the pig sit up on its front end and attempt to run away from the employee. IPP walked to the front of the pig to inspect the stun area and noticed 2 wounds slightly overlapping, midline, with the top wound being even with a line drawn from the lateral canthus of both eyes. The pig could not get up on its back legs. A grey hat establishment employee grabbed the first hand-held captive bolt device, loaded it, and administered a third stun. The third stun attempt resulted in a conscious pig that tried to get away by spinning around and facing the opposite direction. The grey hat establishment employee administered a fourth stun, with the same hand-held captive bolt device, which resulted in an unconscious pig. The establishment Harvest Floor Supervisor was standing at the stunning site and observed the incident. IPP placed a U.S. Reject Tag number B34757071 to the restrainer pen gate leading to the Butina and notified the two employees at the gate that no further stunning could take place. The Harvest Slaughter Floor Supervisor and Quality Control Supervisor were informed a regulatory control action was taken at the Butina entrance and the District Office would be contacted for further guidance.

This is a violation of the FMIA (21 U.S.C.) 603, regulations 9 CFR 313.15(a)(1) and 313.15(b)(1)(iii) and the HMSA of 1978.

Conclusion:

After consideration of the facts surrounding this incident, it was determined that a Notice of Intended Enforcement (NOIE) be issued for your slaughter operations, in lieu of a suspension, as per the Rules of Practice 9 CFR 500.3(b) and as specified in 9 CFR 313.50(b).

According to the Rules of Practice laid out in 9 CFR 500.3(b), FSIS may impose a suspension without providing prior notification because an establishment is handling or slaughtering animals inhumanely. Alternatively, FSIS may issue a withholding action or suspension with prior notification in certain cases based on considerations of establishment history of compliance with the humane handling regulations, demonstration of implementation of a robust systematic approach to humane handling, whether suspension is necessary to prevent inhumane handling from continuing, and whether the egregious noncompliance represents a rare finding or an anomaly in an otherwise well-functioning system. The decision to issue a NOIE in lieu of a Notice of Suspension (NOS) is based on your implementation of a written

humane handling program in a “robust” manner and history of compliance with the humane handling regulations.

Before proceeding with any enforcement action, we are affording you the opportunity to demonstrate why a determination should not be made that your slaughter process is inadequate or to demonstrate that you have achieved regulatory compliance. Please provide this office with a written response to this NOIE within three (3) working days from the date of your receipt of this letter. We will determine if any further actions are necessary based on your response. The corrective actions and preventive measures in your response should address the following:

1. An initial assessment of the incident, including determination of the cause.
2. Immediate corrective actions taken.
3. Preventive measures to prevent reoccurrence.
4. Any training of employees and materials used.
5. Type of monitoring activity for stunning, along with a documentation record.

Your proposed corrective actions and preventive measures should include any times and/or dates for completion of these proposed activities.

Please be advised that you have the right to appeal this matter. If you wish to appeal, you should contact:

Attention: Paul Wolseley
Executive Associate for Regulatory Operations
Office of Field Operations
Food Safety and Inspection Service
United States Department of Agriculture
1400 Independence Avenue, SW
Room 344-E, Whitten Building
Washington, DC 20250
Phone number: 202-708-9506

You are reminded that as an operator of a federally inspected establishment, you are expected to comply with FSIS regulations, regarding the humane handling and slaughter of livestock. We urge your cooperation and voluntary compliance. If you have questions regarding this matter, please feel free to contact the Des Moines District Office at 515-727-8960 (b) (6) or

(b) (6)

Sincerely,

TODD GERWIG Digitally signed by TODD GERWIG
Date: 2020.11.06 14:56:56 -06'00'

for Dawn Sprouls, DVM
District Manager
USDA FSIS OFO
Des Moines District