



United States Department of Agriculture

Food Safety and
Inspection Service

Office of Field
Operations
Des Moines District
Office

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

Voice 515.727.8960
Fax 515.727.8991

September 2, 2020

Joseph Mach, Plant Manger
Swift Pork Company
600 South Iowa Avenue
Ottumwa, Iowa 52501

Signed copy hand delivered
Signed original sent via FedEx

NOTICE OF SUSPENSION

Mr. Mach:

This letter confirms verbal notification given to you by the Des Moines District, Food Safety and Inspection Service (FSIS) on September 2, 2020, of our decision to suspend the assignment of FSIS Inspection Program Personnel (IPP) at Swift Pork Company, Establishment M850, located at 600 South Iowa Ave., Ottumwa, IA 52501, herein referred to as 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 September 1, 2020.

Background

The *Federal Meat Inspection Act* (FMIA) (21 U.S.C. 603 et seq) provides for the purpose of preventing the inhumane slaughtering of livestock. This Act gives FSIS the authority, as designated by the Secretary of the Department of Agriculture, to prescribe rules and regulations describing examinations and inspections of the method by which cattle, sheep, swine, goats, horses, mules, and other equines are slaughtered in the establishments inspected under this Act. They also provide FSIS program personnel the authority to temporarily suspend activities at a slaughtering establishment if FSIS 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 the *Humane Methods of Slaughter Act* (HMSA) of August 27, 1958 (72 Stat. 862; 7 U.S.C. 1901-1906), until the establishment furnishes assurances satisfactory to FSIS that all slaughtering and handling in connection with the slaughter of livestock shall be in accordance with such methods.

Under the authorities of the Acts, FSIS has prescribed rules and regulations required for the

humane slaughtering of livestock, as contained in Regulations 9 CFR Part 313, and the HMSA of 1978. FSIS has also developed Rules of Practice regarding enforcement prescribed in 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

IPP observed the following non-compliance with HATS Category IX – Consciousness on the Rail: On September 1, 2020 at 2348 hours while walking adjacent to the bleed rail on the way to the livestock holding pen area, IPP heard hog vocalization, turned to the bleed rail and observed a conscious hog vocalizing while attempting to right itself. IPP motioned his hand towards the hog's face as he got closer and observed eye blinking. This took place shortly before the incline to the scald tub. As IPP followed the hog up the incline, he observed two more vocalization and righting reflex episodes with the hog arching its head upwards towards its shoulders. As IPP went up the stairs to the scald tub, in an attempt to find someone to stop the chain, he heard another vocalization episode. Seconds later the hog went into the scald tub. IPP then went to the CO₂ gas stunning area and informed (b) (6) that IPP would be taking a regulatory control action and no further stunning could take place until IPP contacted the district office for further guidance. At 2351 hours, IPP placed U.S. Reject tag B34 826202 at the guillotine gates just before the gas stunners.

Justification

The incident described above indicates a violation of the FMIA (21 U.S.C.) 603, Regulations 9 CFR 313.5 and the HMSA of 1978.

The establishment has a humane handling program that meets the four criteria as described in the Federal Register Notice of September 9, 2004 but was not implementing the program as written at the time of the incident. Based on the above findings, the Des Moines District Office has determined to suspend the assignment of inspectors for your slaughter operations, as per the Rules of Practice 9 CFR 500.3(b) and as specified in 9 CFR 313.5.

If you choose to respond with corrective and preventive measures please provide this office with a written response concerning the Notice of Suspension (NOS) and we will determine further action, if any, based upon your response. If you choose to address this issue your written response should include:

1. An initial assessment of incident/determine 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 and consciousness, along with a documentation record.

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

**Executive Associate for Regulatory
Operations Office of Field Operations
Food Safety and Inspection Service
United States Department of Agriculture
1400 Independence Ave. S.W.
Room 3157, South Building
Washington, DC 20250-3700 Telephone
(202) 720-4614
Fax: (202) 690-3287**

In addition, you may also request a hearing regarding this determination pursuant to FSIS Rules of Practice, 9 CFR Part 500. The Rules of Practice were published in the Federal Register, Vol. 64, No. 228, on November 29, 1999. As specified in Section 500.5(d), should you request a hearing, FSIS will file a complaint that will include a request for an expedited hearing.

If you wish to request a hearing regarding this determination, you should contact:

**Scott C. Safian, Director
Food Safety and Inspection Service
Office of Investigation, Enforcement and
Audit Enforcement and Litigation Division
United States Department of Agriculture
Stop Code 3753, PP3, Cubicle 8-243A
1400 Independence Avenue, SW
Washington, DC 20250
Telephone: (202) 418-8872
Fax: (202) 245-5097**

We urge your cooperation and voluntary compliance. If you have questions regarding this matter please feel free to contact (b) (6) or (b) (6) or the Des Moines District Office at 515-727-8960.

Sincerely,

DAWN

 Digitally signed by DAWN
SPROULS
Date: 2020.09.02 09:56:29 -05'00'

Dr. Dawn Sprouls, DVM
District Manager
Des Moines District
FSIS, USDA