



United States Department of Agriculture

Food Safety and
Inspection Service

April 9, 2021

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Office of Field
Operations
Des Moines District
Office

Rick Getman
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 SUSPENSION

Voice 515.727.8960
Fax 515.727.8991

Dear, Mr. Getman:

This letter confirms verbal notification by the Des Moines District Office, Food Safety and Inspection Service (FSIS) on April 8, 2021, of our decision to suspend the assignment of Inspection Program Personnel (IPP) at Establishment M5537, Sioux-Preme Packing Co., in Sioux Center, IA, 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 April 8, 2021.

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 amenable species 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 equines have been slaughtered or handled in connection with slaughter at such establishment by any method not in accordance with the *Humane Methods of Slaughter Act* (HMSA) (72 Statute, 862; 7 U.S.C. 1901 to 1906) 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 methods.

Under the authorities of the Acts, FSIS has prescribed rules and regulations for the humane slaughtering of livestock, as contained in 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

On April 8, 2021 at approximately 0810 hours, the Supervisory Public Health Veterinarian (SPHV) entered the Butina area on the way to the barn to conduct an antemortem (HATS Category IV) task. As the SPHV was walking down the steps, he noticed a market hog on the shackle line bending from side to side and kicking its front legs. As the SPHV approached the pig, he noticed there was no blood coming from the sternal area of the pig and upon looking closer noticed the pig, now 5 or 6 head away from the sticker, did not get stuck while passing through the stick area. The SPHV waved at the employees to stop the line. The pig continuously was trying to right itself, lifting its head in a controlled manner from side to side with some rotation. The SPHV noticed the eyes were wide open and congested with blood. The SPHV checked for a palpebral reflex and one was present. By that time, the Butina employee was at the hog to initiate a hand-held captive bolt (HHCBS) stun. The pig was continuously trying to right itself, lifting its head in a controlled manner. The first stun went midline between the ears which was about 1.5 inches higher than a junction of two lines drawn between each ear and the contralateral eye. (b) (6), just arrived and IPP showed him that the pig had not been properly stunned and that the employee attempted to stun the animal. The employee administering the HHCBS stun had both hands on the gun with no additional restraint or assistance. The SPHV could see the HHCBS rod between the pig and the device after it was fired a second time. An effective second stun attempt was administered. At that time, the SPHV tagged the Butina entrance gate with U.S. Reject tag number B34760686 and told (b) (6) that they could not slaughter until further notice.

The pig was marked so the head could be salvaged and the pigs already euthanized were processed. After salvaging the head, the SPHV watched (b) (6) split the head. Mr. Rick Getman, Plant Manager, and (b) (6) and the SPHV examined the head. One stun attempt did not penetrate the skull bone ventrally midline between the ears and the second stun penetrated the skull, and you could see the circular shaped damage caused by the HHCBS penetrating rod. This damage extended caudoventrally into the center of the brain cavity.

This is a violation of the FMIA (21 U.S.C.) 603, regulations 9 CFR 313.5(a)(3), 313.15(a)(1) and the HMSA of 1978.

Conclusion:

The observations detailed above indicate an egregious violation of the humane handling requirements specified within the provisions of 21 U.S.C. 603, Section 3(b) of the FMIA, and 7 U.S.C. 1901 and 1902 of the HMSA of 1978 and the regulatory requirements outlined in 9 CFR 313.5(a)(3) and 313.15(a)(1).

The establishment does have a humane handling program that meets the four criteria as described in the Federal Register Notice of September 9, 2004, although it was not consider robust at the time of this noncompliance. In addition, the establishment recently received a Letter of Warning (LOW) on March 12, 2021 from the Des Moines District Office closing a

Notice of Intended Enforcement (NOIE) issued on November 5, 2020 for an egregious ineffective stunning noncompliance of a market hog. Therefore, 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).

The suspension of the assignment of IPP will remain in effect until such time as you provide to this office adequate written corrective actions and preventive measures to assure that the handling and/or slaughter of animals will be done humanely and in accordance with the FMIA, HMSA, and the regulations promulgated therein.

You may provide this office written corrective and preventive measures concerning the NOS and we will determine further action, if any, based upon your response. Your proposed corrective actions and preventive measures should include any times and/or dates for completion of these proposed activities.

Your written response should include:

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 and conscious, 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:

Sherri N. Johnson
Acting Executive Associate for Regulatory Operations
Office of Field Operations
Food Safety and Inspection Service
United States Department of Agriculture
1400 Independence Avenue, SW
South Building, Room 1330A
Washington, DC 20250
sherri.johnson@usda.gov
Phone number: 202-379-6196

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, Branch Chief
Enforcement Operations Branch
Office of Investigation, Enforcement and Audit
Food Safety and Inspection Service
United States Department of Agriculture
Stop Code 3753, PP3, Cubicle 8-235-A
1400 Independence Avenue, SW
Washington, DC 20250
Phone number: 202-418-8872
Fax number: 202-245-5097

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).
(b) (6)
(b) (6)

Sincerely,



Digitally signed by Todd C.
Gerwig
Date: 2021.04.09 06:39:43 -05'00'

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