



January 10, 2025

Swift Pork Company
Establishment M3S
402 North Tenth Avenue
Marshalltown, Iowa 50158
joe.mach@jbssa.com
641-752-7131

HAND DELIVERED on January 10, 2025
ELECTRONIC MAIL on January 10, 2025

Attention: Joe Mach, Plant Manager

NOTICE OF INTENDED ENFORCEMENT

This letter serves as official notification by the Food Safety and Inspection Service (FSIS) of our decision to withhold the federal marks of inspection and suspend the assignment of Inspection Program Personnel (IPP), with prior oral notification, at Establishment M3S, Swift Pork Company, located at 402 North tenth Ave., Marshalltown, IA. This letter follows verbal notification of the Notice of Intended Enforcement (NOIE) to (b) (6) and (b) (6) production managers, by (b) (6) PHV at approximately 5:07pm. This action includes the Slaughter Hazard Analysis Critical Control Point (HACCP) processes employed at your establishment.

The decision to institute this enforcement action is in accordance with Title 9 of the Code of Federal Regulations (CFR), Rules of Practice 500.3(b), based on the determination that your establishment did not handle or slaughter animals humanely. The observed, egregious, inhumane handling incident demonstrates failure to comply with the Federal Meat Inspection Act (FMIA) (21 U.S.C. 603), the Humane Methods of Slaughter Act (HMSA) (7 U.S.C 1901 et seq.) and regulatory requirements (9 CFR Part 313).

Background/Authority

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; Title 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.

The HMSA provides 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. It is therefore declared to be the policy of the United States that the slaughtering of livestock and the handling of livestock in connection with slaughter shall be carried out only by humane methods.

Under the authority of the Acts, FSIS has prescribed rules and regulations required for establishments slaughtering and handling livestock, as required by 9 CFR Part 313. 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. Specifically, 9 CFR 500.3(b) states that FSIS may impose a suspension without providing prior notification due to handling or slaughtering of animals inhumanely.

Findings/Basis for Action

On January 10, 2025, at approximately 10:55 a.m. inspection program personnel (IPP) was conducting a Livestock Humane Handling Task and verifying HATS Category VIII. Stunning Effectiveness and observed the following noncompliance. There was a group of hogs placed in the loading area of the newly installed carbon dioxide stunning device. As the automatic push gate began to move one hog fell. The hog was sternal and did not return to a standing position before the gate contacted the hog. The hog was pushed approximately 1.5-2 feet. The hog did not vocalize while being pushed. There were 10-15 establishment employees in the new addition of the barn along with several outside contractors. Of those establishment personnel there were 4-5 that were close enough to the loading area to have a partial view of the hogs. They did not appear to be observing the hogs at the time of the incident. They were not within reach of the emergency stop and did not move to stop the push gate. IPP pulled the emergency stop on the gate. One IPP left the barn, and another stayed in the area and observed the hog standing and exiting the loading area under its own power, it appeared to have not sustained injury.

IPP informed Humane Handling Manager (b) (6) that a regulatory control action would be taken by tagging the carbon dioxide stunner and that stunning also needed to be stopped on the other carbon dioxide stunning devices.

This is in noncompliance with 9 CFR 313.2(d)2 and 313.5(a)2. U.S. Retain Tag B-46754568 was placed on the carbon dioxide stunner. IPP then contacted their front-line supervisor and the district office for additional correlation.

On September 9, 2004, FSIS published "*Humane Handling and Slaughter Requirements and the Merits of a Systematic Approach to Meet Such Requirements*" in the Federal Register (69 FR 54625). On September 24, 2020, FSIS released FSIS Directive 6900.2 Revision 3, entitled, "*Humane Handling and Slaughter of Livestock*." Additionally, on October 23, 2013, FSIS introduced new guidance, titled "*FSIS Compliance Guide for a Systematic Approach to the Humane Handling of Livestock*." Within the guidance material is information intended to better ensure the humane treatment of livestock presented for slaughter. The guidance material provides a set of practices designed to minimize excitement, discomfort, and accidental injury regarding the humane handling of livestock to include the four components of a robust systematic approach to humane handling.

When an establishment maintains a robust humane handling program, FSIS can exercise regulatory discretion when an inhumane handling or slaughter incident is observed. Although your establishment has previously developed and implemented a systematic approach to humane handling that was considered robust, you have failed to effectively implement your program accordingly.

Summary and Conclusion

Provisions of the FMIA outline FSIS' ability to refuse to render inspection and indefinitely withdraw inspection from an establishment, provided the establishment is afforded the right to an administrative hearing, when conditions exist where the slaughter and/or handling of livestock was not by a method in accordance with the Act(s). Evidence demonstrates your failure to meet regulatory requirements addressed in 9 CFR 313.2(d)2 and 313.5(a)2 constituting a violation of the humane slaughter requirements, and supporting the conclusion that your handling of livestock violated the provisions of the FMIA and HMSA.

Please provide a written response, inclusive of written corrective action and preventative measures, by addressing the following:

- Evaluate and identify the nature, cause of the incident.
- Describe the specific actions taken to eliminate the cause of the incident and prevent future recurrences.
- Describe specific monitoring activities planned to ensure future compliance.
- Provide any supporting documentation and records maintained and/or associated with the proposed corrective actions and preventative measures.

A determination of further administrative action will be made upon receipt and review of your submitted corrective actions and preventative measures. You are reminded that, as an operator of a federally inspected establishment, you are expected to comply with FSIS regulations and take appropriate actions to prevent the inhumane handling and slaughter of livestock at your establishment. Please be advised that your failure to respond adequately to these issues may result in our initiating action to withdraw inspection from your establishment.

Appeal and Hearing Rights

Joe Mach, Plant Manager
Swift Pork Company, Est. M3S

Notice of Intended Enforcement
January 10, 2025

You have the right to appeal this matter and can do so by contacting:

Robert Q. Bane
Executive Associate for Regulatory Operations
Office of Field Operations
4700 S. Thompson, Bldg. B, Ste. 201
Springdale, AR 72764
Mobile: (b) (6)
robert.bane@usda.gov

Pursuant to 9 CFR 500.5(d), you may also request a hearing regarding this determination. 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, please contact:

Scott C. Safian, Director
Enforcement Operations Staff (EOS)
Office of Investigation, Enforcement and Audit (OIEA)
Food Safety and Inspection Service
United States Department of Agriculture
Stop Code 3753, SB - Room 2148
1400 Independence Avenue, SW
Washington, DC 20250
Telephone: (202) 418-8872
Facsimile: (202) 245-5097
E-mail: AEBCorrespondence@usda.gov

If you have questions regarding this matter, please feel free to contact the Des Moines District Office at 515-727-8960 or District Veterinary Medical Specialist (b) (6) at (b) (6) (b) (6)

Sincerely,

CAROL FORD
Digitally signed by CAROL FORD
Date: 2025.01.10 17:25:18
-06'00'

Mr. Jeffery Jacobsen
District Manager
USDA FSIS OFO
Des Moines District