



April 15, 2023

**ELECTRONIC COPY PROVIDED  
AND DELIVERED BY COURIER**

Mr. Frank Faso, Owner  
Pork King Packing, Inc.  
Est. M2926  
8808 State Route 23, P.O. Box 253  
Marengo, IL 60152

## **NOTICE OF SUSPENSION**

Dear Mr. Faso:

This letter confirms verbal notification provided to (b) (6), Kill Floor Supervisor, and (b) (6), Quality Control Manager, by Dr. Tamara Davis, Deputy District Manager, on April 15, 2023, at approximately 1032 hours CDT, of the Food Safety and Inspection Service's (FSIS) decision to suspend the assignment of inspection program personnel from your slaughter process Pork King Packing, Inc., establishment M2926, located at 8808 State Route 23, P.O. Box 253 in Marengo, Illinois. This action is based on your establishment's failure to effectively implement humane methods of slaughtering and handling animals in a manner that complies with the regulatory requirements prescribed by the Federal Meat Inspection Act (FMIA) and the Humane Methods of Slaughter Act (HMSA). Your establishment is in violation of Title 9 of the Code of Federal Regulations (9 CFR) Sections 313.2(b). The Rules of Practice, 9 CFR 500.3(b), specify that FSIS may issue a suspension without providing prior notification if an establishment is handling or slaughtering animals inhumanely.

### **Background and Authority**

The Federal Meat Inspection Act (21 U.S.C. 603 Section 3(b)) states, "*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 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 equines have been slaughtered or handled in connection with slaughter at such establishment by any method not in accordance with Sections 1901 to 1906 of 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.*" In addition, under prohibited acts 21 U.S.C. 610 sec 10 (b), "*No person, establishment or corporation shall, with the respect to any cattle, sheep, swine, goats, horses, mules, and other equines, or any carcasses, parts of carcasses, meat or meat food products of any such animals slaughter or handle in connection with slaughter any such animals in any manner not in accordance with sections 1901 to 1906 of Title 7.*"

The Humane Methods of Slaughter Act, 7 USC 1901, states, "*The 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 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.*"

The Humane Methods of Slaughter Act, 7 USC 1902, states, “*No method of slaughtering or handling in connection with slaughtering shall be deemed to comply with the public policy of the United States unless it is humane.*” When an egregious situation has been observed and identified, 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 above Acts, FSIS has prescribed rules and regulations required for establishments producing meat and poultry products, including the requirements pertaining to the humane slaughter of livestock, as required by 9 CFR 313, and other matters. FSIS has also developed Rules of Practice regarding enforcement, within in 9 CFR 500. The Rules of Practice describe the types of enforcement action that FSIS may take a withholding action and/or suspension, with or without prior notification, and for filing a complaint to withdraw a Grant of Federal Inspection.

### **Findings/Basis for Action**

On April 15, 2023, at approximately 0930 hours, the FSIS Frontline Supervisor (FLS) described the following humane handling incident. While observing establishment employees move market hogs up the single file drive alley chute, the FLS observed a hog stop before the last back stop gate to the stunning box. The establishment employee, who was carrying a rattle paddle and an electric prod, tapped the hog with the rattle paddle a few times in an effort to drive the hog forward. The animal did not move, and the employee then applied the electric prod directly on the anus. The hog vocalized and ran up the chute in response. The FLS took regulatory control of the process and placed U.S. Rejected tag number B45503538 on the door to the drive alley chute. (b) (6), Barn Supervisor, and (b) (6) Quality Control Manager, were notified of the observations.

The occurrence of this inhumane handling incident as described is egregious and a violation of the humane handling requirements as prescribed by 21 U.S.C. 603, Section 3 (b) of the FMIA, and 7 U.S.C. 1901 and 1902 of the HMSA of 1978. You have failed to meet the requirements of 9 CFR 313.2(b) which states in part, “*Electric prods, canvas slappers, or other implements employed to drive animals shall be used as little as possible in order to minimize excitement and injury. Any use of such implements which, in the opinion of the inspector, is excessive, is prohibited.*”

### **Summary and Conclusion**

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 Notice (54 Fed. Reg. 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 egregious humane handling 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. Specifically, the employee applied the electric prod directly to the anus, a sensitive area. The decision to issue a NOS is based on the failure to implement the plan as written.

Please provide this office with a written response to address the regulatory issues identified within this letter. At a minimum, your corrective actions should address the following:

1. Identify the specific reason(s) why the events described occurred.
2. Describe the specific action(s) that will be implemented to eliminate the cause of the incident and prevent future recurrences.

3. Describe the specific future monitoring activity or activities that your establishment will employ to ensure the actions implemented are effective.
4. Provide any supporting documentation and records maintained and associated with your proposed corrective actions and preventive measures.

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

You have the right to appeal this matter. Your appeal should be addressed to the following:

Melissa Moore  
Executive Associate for Regulatory Operations  
Office of Field Operations  
Food Safety and Inspection Service, USDA  
1400 Independence Ave. SW  
South Building Room 3159  
Washington, DC 20250  
Cell: (202) 450-0330  
melissa.moore1@usda.gov

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, SB – Room 2148  
1400 Independence Ave. SW  
Washington, DC 20250  
Voice: (202) 418-8872  
Fax: (202) 245-5097

If you have questions regarding this matter, you may contact (b) (6), District Veterinary Medical Specialist (DVMS), at (b) (6); (b) (6), DVMS, at (b) (6); or you may contact this office at (630) 620-7474 or by fax at (630) 620-7599.

Sincerely,

**TAMARA  
DAVIS**

Digitally signed by  
TAMARA DAVIS  
Date: 2023.04.15  
12:31:27 -05'00'

Dr. Donald B. Fickey  
District Manager  
FSIS Chicago District