



Food Safety and
Inspection Service

Office of Field
Operations
Des Moines
District Office

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

Voice
515.727.8960
Fax 515.727.8991

September 19, 2024

Electronic Mail on September 19, 2024

Timbra Thies, Plant Manager
Smithfield Fresh Meats Corp.
800 Industrial Drive
Denison, Iowa 5144
Est. M717
tthies@smithfield.com
712-263-5002

NOTICE OF SUSPENSION

Attention: Timbra Thies

This letter serves as official notification by the Des Moines District Office, Food Safety and Inspection Service (FSIS) of our intent to withhold the marks of inspection and suspend the assignment of inspection program personnel (IPP) for slaughter operations at Smithfield Fresh Meats Corp., Est. M717, located at 800 Industrial Drive, Denison, IA. This letter follows verbal notification of the suspension action, provided by District Case Specialist, Aubrey Williams, to Timbra Thies, Plant Manager, at 1:27pm on September 19, 2024.

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) specifically 9 CFR 313.2(d)(2) and 313.5(a)(2).

Background

The FMIA (21 USC 601 et seq.) provides it is essential to the public interest that the health and welfare of consumers be protected, by assuring meat products distributed to them are wholesome, not adulterated, and properly marked, and labeled. The Act gives FSIS the authority, as designated by the Secretary of Agriculture, to prescribe rules and regulations describing sanitation requirements for inspected establishments and provide FSIS program personnel the authority to refuse to allow meat/meat food products to be marked, labeled, stamped, or tagged as inspected and passed, to prevent the entry of adulterated products into commerce. Furthermore, the FMIA provides FSIS the authority to appoint inspectors to examine and inspect the method by which

livestock are slaughtered and handled at slaughtering establishments.

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 September 19, 2024, at approximately 1015 hours, while conducting HATS Category IV Antemortem Inspection, IPP walked past the South CO2 stunning unit, and observed a noncompliance with HATS VI Alternative Object Use. In the alley, immediately prior to the area that loads into the gondola basket, there were a group of four hogs. One hog was standing but was open mouth breathing and legs were beginning to shake. As the pre-dividing gate started to move East towards the loading area, the hog sat down with its rear end contacting the floor. The hog was pushed by the pre-dividing gate approximately three (3) feet into the loading area. The hog did not vocalize. At this time, IPP informed establishment employee (b) (6), Humane Handling Specialist, of the sitting hog and (b) (6) walked away from the area towards the (b) (4) operator. In the meantime, the moving gate/wall began to move North, and the sitting hog was pushed approximately four (4) feet into the gondola basket; with its rear end contacting the floor the entire time. IPP then proceeded to let (b) (6) know that a regulatory control action would be taken by stopping stunning. IPP also informed (b) (6), Harvest Superintendent of the incident and U.S. Retain Tags #B42276688 and B42276687 were placed on both CO2 stunners. This is in noncompliance with 9 CFR 313.2(d)2 and 313.5(a)(2). IPP then contacted the District Office for additional direction.

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.

The establishment does not have a robust humane handling program. Based on the above findings, the Des Moines District Office has made a decision to suspend the assignment of inspectors for your slaughter operations, as per the Rules of Practice regulation 9 CFR Part 500.3(b).

The suspension of the assignment of inspectors will remain in effect until such time as you provide to this office adequate written corrective actions and preventive measures to address the noncompliance detailed in this NOS, 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.

Your written response should include:

1. An initial assessment of the incident, including determination of the cause.
2. Immediate corrective actions taken.
3. Measures to prevent reoccurrence.
4. Any training of employees, materials used, and associated records.
5. Type of monitoring activity(s) to be conducted and associated monitoring records.

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 to take appropriate corrective actions to prevent the production of adulterated products 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

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

Sherri N. Johnson, 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

Timbra Thies, Plant Manger
Smithfield Fresh Meats Corp., Est. M717

Notice of Suspension
September 19, 2024

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)

Sincerely,

**JEFFERY
JACOBSEN**

Digitally signed by
JEFFERY JACOBSEN
Date: 2024.09.19
14:02:49 -05'00'

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