Regional Administrator Kim Stille
Occupational Safety and Health Administration
Two Pershing Square Building
2300 Main Street, Suite 1010
Kansas City, MO 64108
(Via email)

cc: Doug Kalinowski, National Office (via email)

November 13, 2020

Re: Iowa OSHA Complaint About State Program Administration (CASPA)

Dear Ms. Stille:

The undersigned labor unions, civil rights organizations, faith-based organizations, and a non-profit labor management cooperation committee collectively advocate for the rights of workers, immigrants, Black people, Latinos, and other people of color in the state of Iowa. In filing this Complaint about Iowa OSHA, we urge you to open an immediate investigation into these charges. Workers' lives and health hang in the balance. We are requesting that Federal OSHA fully investigate these charges and require Iowa OSHA to change its policies and procedures to correct the deficiencies set forth below.

Introduction and Summary

Iowa OSHA has a legal responsibility to assure safe and healthful working conditions for workers in Iowa. However, Iowa OSHA has abdicated this responsibility. The Iowa OSHA program is required to be at least as effective as Federal OSHA.[1] But Iowa OSHA falls far short of the protections offered by Federal OSHA. Iowa OSHA has failed to protect workers during this pandemic. The agency's enforcement provisions and policies are inadequate and the agency fails to follow its own procedures. This has left workers unprotected from hazards that can cause serious physical harm or death.

During this pandemic and in years before, Iowa OSHA has failed to protect workers by refusing to initiate on-site inspections in response to worker complaints about serious and deadly hazards that caused physical harm.

[1] *See* 29 U.S.C. § 667(c); *see also* OSHA, State Plan Frequently Asked Questions, https://www.osha.gov/stateplans/faqs ("OSHA monitors and evaluates State Plans annually through the Federal Annual Monitoring Evaluation (FAME) process. This process is used to: determine whether the State Plan is continuing to operate at least as effectively as OSHA, track a State Plan's progress in achieving its strategic and annual performance goals, and ensure that the State Plan is meeting its mandated responsibilities under the Act and other relevant regulations.")

As of October 4, 2020, workers had filed 148 COVID-19 related complaints alleging dangerous working conditions with Iowa OSHA.[2] Only five of these cases (or approximately three percent) resulted in an inspection; the other 97 percent were closed without any investigation at all.[3] After failing to conduct timely investigations or enforcement actions to protect Iowans in response to those worker complaints, outbreaks occurred among workers, their families, and their larger communities. In seven additional cases, media coverage of outbreaks finally triggered Iowa OSHA to take action.[4]

However, even those seven Iowa OSHA COVID-19 related inspections of meatpacking plants that followed media or elected official referrals were completely inadequate and failed to protect workers.[5]

Immigrants, Black, and Latinx Iowans have been among those hardest hit by COVID-19 in Iowa. This reflects the demographics of Iowans who fill front-line, essential worker roles, including in meatpacking facilities, the sites of numerous major COVID-19 outbreaks in Iowa communities.[6] Nationwide, 44.4 percent of meatpacking workers are Latinx, and 25.2 percent are Black.[7]

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[2] *See* US Dept. Of Labor, COVID-19 Complaint Data, Previous Weekly Reports, "Closed Safety and Health Complaint Data" (As of October 4, 2020), https://www.osha.gov/foia/archived-covid-19-data [hereinafter October 4, 2020 OSHA Records]. The number of Iowa complaints were found by sorting for "IOWA" in the "Establishment Name Site City-State-Zip" field of the October 4, 2020 excel spreadsheet.

[3] *See Id.* Of the 148 total Iowa complaints, only those 5 complaints of the 148 total Iowa complaints that contain a number in the "Insp. ID" column were inspected.

[4] *See* Laura Belin, BLEEDING HEARTLAND, *Iowa OSHA visits two more meatpackers; other plants cleared with no inspection* (Jun. 3, 2020), https://www.bleedingheartland.com/2020/06/03/iowa-osha-visits-two-more-meatpackers-other-plants-cleared-with-no-inspection/.

[5] *See id.; see also infra* Part 2.

[6] *See, e.g.,* Tony Leys, *Coronavirus Infects More than 1,600 Workers at Four Iowa Meatpacking Plants*, DES MOINES REGISTER (May 5, 2020), https://www.desmoinesregister.com/story/news/health/2020/05/05/coronavirus-infects-thousands-iowa-meatpacking-plant-workers-covid-19-waterloo-perry/5170796002/ ("Meatpacking plants have been at the center of several COVID-19 outbreaks around Iowa and the nation this spring. Workers in the plants stand close together all day, and critics say the companies did a poor job of protecting them from the virus' spread."); Tommy Birch, *As Coronavirus Spikes in Black Hawk County, Local Officials Blast Tyson Foods for Not Closing its Waterloo Plant*, DES MOINES REGISTER (Apr. 17, 2020), https://www.desmoinesregister.com/story/news/health/2020/04/17/tyson-foods-black-hawk-county-govonor-kim-reynolds/5151840002/ (reporting on local officials attributing the community spread of Covid-19 to the Tyson meatpacking plant in Waterloo, Iowa).

[7] Shawn Fremstad, Hye J. Rho, & Hayley Brown, *Meatpacking Workers are a Diverse Group Who Need Better Protections*, CENTER FOR ECONOMIC AND POLICY RESEARCH (Apr. 29, 2020), https://cepr.net/meatpacking-workers-are-a-diverse-group-who-need-better-protections/; *see also* Patricia Cohen, *Immigrants Keep an Iowa Meatpacking Town Alive and Growing*, N.Y.

Black and Latinx workers, including immigrants, work in the most dangerous jobs. This year, the Bureau of Labor Statistics reported that Black and Latinx workers suffered higher fatality rates than other workers. In its latest release, the Bureau found that the number of Black workers killed on the job in 2018 increased 16 percent, from 530 to 615, the highest total since 1999.[8] 51.5 percent of frontline meatpacking workers are immigrants.[9]

Overall worker fatality rates in Iowa are much higher than the national average.[10] New research documents that the fatality rate of workers in Iowa is 40 percent higher than the national average.[11] Iowa OSHA's abdication of its duty to ensure employers are providing safe conditions has had a direct impact on those working in the harshest and most dangerous conditions.

Despite many COVID-19 infections among Iowa meatpacking workers, Iowa OSHA has not issued *any* safety citations; instead, it has only issued a single citation for a *record keeping* violation.[12] Federal OSHA, in contrast, has issued two citations to meatpacking companies for safety violations: one to Smithfield Foods for a plant in South Dakota and the other to JBS for a plant in Colorado.[13] OSHA found that these plants failed to maintain a workplace "free from recognized hazards that were causing or likely to cause death or serious physical harm to employees in that employees were working in close proximity to each other and were exposed to" the coronavirus.[14]

TIMES (May 29, 2017), https://www.nytimes.com/2017/05/29/business/economy/storm-lake-iowa-immigrant-workers.html (reporting that the majority of the 2,200 Storm Lake, Iowa's meatpacking plant workers were Latino, Asian, and African immigrants).

[8] *Census of Fatal Occupation Injuries News Release*, U.S. BUREAU OF LABOR STATISTICS (Dec. 17, 2019, 10:00 AM EST), https://www.bls.gov/news.release/archives/cfoi_12172019.htm.

[9] *Id.*

[10] *Death on the Job: The Toll of Neglect*, AFL-CIO (Oct. 2020), 196, https://aflcio.org/sites/default/files/2020-10/DOTJ2020_Final_100620_nb.pdf.

[11] *Id.*

[12] Associated Press, *After Inspecting 5 Meatpacking Plants with COVID-19 Outbreaks, Iowa Regulators Only fine $957*, GAZETTE (Sept. 24, 2020), https://www.thegazette.com/subject/news/business/after-inspecting-5-meatpacking-plants-where-thousands-of-workers-were-sickened-iowa-regulators-issue-one-fine-957-20200924. A widespread COVID-19 outbreak in the Iowa Premium Beef Plant in Tama, Iowa resulted in 338 workers becoming sick with COVID-19 out of 850 total workers.[12] Surprisingly, despite the high number of infected workers, in August, the plant was fined not for a safety violation but for a record keeping violation. They were fined for "failing to keep a required log of workplace-related injuries and illnesses, and for failing to provide the document within four hours after inspectors requested it. The plant ended up paying a mere $957 in a settlement and was labeled as "other-than-serious." *Id.*

[13] Washington Post, *Hundreds of COVID-19 Deaths Later, Feds Fine 2 Slaughterhouses*, GAZETTE (Sept. 13, 2020), https://www.thegazette.com/subject/news/business/hundreds-of-covid-19-deaths-later-feds-fine-2-slaughterhouses-20200913.

[14] *Id.*

As this Complaint will detail, Iowa OSHA failed to follow its own standards to inspect formal complaints and complaints of imminent dangers regarding COVID-19 at meatpacking plants, health care facilities, and nursing homes as it was required to do. This Complaint will also detail that Iowa OSHA's failure to protect workers during the current pandemic is unfortunately consistent with a pattern of failing to adequately respond to complaints warranting inspections preceding the COVID-19 pandemic that we found in Iowa OSHA's failure to properly classify and inspect complaints regarding imminent hazards at construction worksites.

We respectfully request that federal OSHA undergo a full investigation into the following complaints regarding Iowa OSHA:

1. Iowa OSHA failed to follow its own procedures. Both during the pandemic and in years before, Iowa OSHA failed to conduct on-site inspections in response to complaints of hazards that have caused or could cause serious physical harm or death to workers, in violation of their own procedures. During the pandemic, Iowa OSHA's failure to inspect meatpacking plants and nursing homes resulted in great numbers of workers being infected with COVID-19, the spread of COVID-19 into the community from the workplace, and deaths of workers.
2. When Iowa OSHA did conduct on-site inspections following COVID-19 complaints, those investigations were inadequate.
3. Iowa OSHA enforcement provisions and policies are inadequate.
4. Iowa OSHA has made it too difficult for workers to file complaints with the agency, thereby abridging worker rights and failing to be "as effective as" federal OSHA.
5. Iowa OSHA has too few inspectors who perform on-site health and safety investigations.
6. Iowa OSHA fails to provide sufficient information to complainants regarding the outcome of their complaints.

Complainants have exhausted all applicable state remedies regarding these complaints. *See* 29 CFR § 1954.20(c)(2)(iii). State remedies are inadequate because they were meant to address individual cases and single instances of commissioner failure, not the systemic failures raised in this Complaint. *See, e.g.,* Iowa Code § 88.11.

These complaints are set forth in detail below.

1. **Iowa OSHA failed to follow its own procedures. Both during the pandemic and in years before, Iowa OSHA failed to conduct on-site inspections in response to complaints of hazards that have caused or could cause serious physical harm or death to workers, in violation of their own procedures. During the pandemic, Iowa OSHA's failure to inspect meatpacking plants and nursing homes resulted in great numbers of workers being infected with COVID-19, the spread of COVID-19 into the community from the workplace, and the deaths of workers.**

<u>Evidence of COVID-19 Related Failures</u>

As of October 4, 2020, workers had filed 148 COVID-19 related complaints alleging dangerous working conditions with Iowa OSHA. Only five of those complaints resulted in an on-site inspection by the agency: Tyson Fresh Meats in Waterloo; Carry-On Trailer Inc. in Missouri

Valley, TPI Composites in Newton; Titan Tire in Des Moines; and Prestage Foods in Eagle Grove.[15] Instead, in violation of their own procedures, the agency closed the other 143 employee complaints related to COVID-19 without conducting on-site inspections.

Stunningly, and in violation of OSHA's standards to inspect complaints classified as formal that allege a violation of the law that exposes workers to serious physical harm, 33 of 36 of the closed complaints that were classified as formal never received an on-site inspection.[16] The Iowa OSHA Field Operations Manual provides that all complaints classified as formal be inspected.[17] We do not have all of the records to know how Iowa OSHA handled each formal complaint that was supposed to be inspected, but our review of open records responses showing how Iowa OSHA responded to COVID-19 complaints regarding meatpacking plants showed that the agency typically merely sent each employer a letter, and then closed the case.[18]

A clear pattern of Iowa OSHA's response to the COVID-19 crisis has emerged: many of the inspections Iowa OSHA has done have only occurred *after* substantial media coverage or political pressure following outbreaks, instead of being done in a timely manner in response to worker complaints themselves. As of June 3, 2020, there have been a total of seven inspections of meatpacking plants, with at least two additional plants not receiving an on-site inspection despite Iowa OSHA categorizing them as formal complaints.[19] Of the seven inspections that have taken place as of June 3, 2020, one was spurred by a complaint of state lawmakers, and the remaining six were media referrals.[20] This pattern creates a perception among Iowa workers that Iowa OSHA is only motivated to investigate dangerous working conditions after significant public pressure.

Further, many of the complaints classified as non-formal by Iowa OSHA should have been inspected, according to Iowa OSHA's own standards providing that an inspection should be conducted if the complaint "alleges that an imminent danger situation exists."[21] Just a few examples include:

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[15] *See* October 4, 2020 OSHA Records, *supra* note 2. The number of Iowa complaints were found by sorting for "IOWA" in the "Establishment Name Site City-State-Zip" field of the October 4, 2020 excel spreadsheet. Of the 148 total complaints that contain a number in the "Insp. ID" column, only five were inspected.

[16] *Id.* The 148 Iowa complaints were further sorted by the "Formality" field to identify 36 formal complaints. Of these, only 3 were among the 5 total that Iowa OSHA inspected.

[17] Iowa OSHA, Field Operations Manual [hereinafter FOM], Ch. 9-3 at § I.C (1) ("Criteria Warranting an Inspection") (Feb. 11, 2018), https://www.iowaosha.gov/sites/authoring.iowadivisionoflabor.gov/files/12%20-%20chpt9.pdf.

[18] *See* Appx. Exs. 3, 7, 9, 14, 15, and 16.

[19] Belin, *supra* note 4.

[20] *Id.*

[21] Iowa OSHA, FOM, Ch. 9-3 at § I.C (4) ("Criteria Warranting an Inspection") (Feb. 11, 2018).

- Community Choice Credit Union, where the complaint alleged that "[v]ulnerable employees are exposed to Covid-19 virus in the workplace. Employees with health concerns such as pregnancy, asthma, and/or hepatitis are required to work in a call center despite some employees having a note from their personal doctor confirming their vulnerable health condition."
- Prairie Farms Dairy, where the complaint alleged that "[t]he facility is not cleaned and disinfected following positive COVID-19 cases."
- Ryan Companies, where the complaint alleged that "[s]everal employees tested positive for COVID-19. About a dozen employees have symptoms. Employees are given a phone number to call to get tested but some employees cannot get a test. . . Some employees are not wearing masks. 6 feet distancing is not maintained at stairways and in break areas. . . handwashing stations run out of hand sanitizer and are not refilled."
- Care Initiatives, where the complaint alleged that "[e]mployees that call into facility, due to elevated temperature and other symptoms (sore throat, dizziness, nausea, etc...) are told they must come to work. Employees exhibiting these symptoms could result in Covid-19 infection of other employees in the facility."[22]

Iowa OSHA's failure to conduct on-site inspections, in violation of its own standards, has endangered Iowa workers, their families, and their communities. After many of these types of imminent danger complaints were closed with no on-site inspection, outbreaks occurred in the facilities, resulting in thousands of workers becoming seriously ill. Nowhere have these failures been more tragic than in Iowa nursing homes and meatpacking plants. Yet these are consistent with a broader failure on Iowa OSHA's part to investigate imminent danger complaints, as demonstrated by its response to complaints in Iowa's construction industry predating the COVID-19 crisis. These three categories are discussed in turn below.

Iowa OSHA's Failure to Investigate Nursing Home Complaints

Workers in several nursing homes and medical facilities in Iowa filed formal complaints related to COVID-19 hazards at work, but Iowa OSHA did not conduct an on-site inspection of any of them. A glaring example of Iowa OSHA's failure to protect workers is the complaint filed on July 3, 2020 regarding the Good Shepherd Health Center nursing home in Mason City.[23] An inspection should have been conducted on two grounds, either of which was sufficient to require an inspection. First, Iowa OSHA classified this complaint as formal.[24] Second, the complaint provided "reasonable grounds to believe either that a violation of the Act or OSHA standard that exposes employees to physical harm exists, or that an imminent danger of death or serious injury exists."[25] The complaint stated: "employees are working even if they have tested positive for the

[22] October 4, 2020 OSHA Records, *supra* note 2.
[23] *Id.* Search for "Good Shepherd Geriatric" to locate complaint.
[24] *Id.; see also* Iowa OSHA, FOM, ch. 9-4, at § I.C(1).
[25] Iowa OSHA FOM, at ch. 9-4, at § I(C)(10).

COVID virus."[26] This statement indicated that workers were exposed to hazards that have caused or were likely to cause serious physical harm and death.[27]

After Iowa OSHA closed the complaint without an inspection, that nursing home became the site of the largest known active outbreak in Iowa nursing home facilities. The nursing home has 180 residents, and as of August 13, 2020, 122 resident and staffers had been infected with COVID-19.[28] Had Iowa OSHA followed its own standards and inspected the Good Shepherd Health Center, it could have taken timely enforcement action to try to protect workers, residents, and the community from the outbreak which occurred shortly after the July 3, 2020 complaint.

Iowa OSHA's Failure to Investigate Meatpacking Plants

COVID-19 has spread throughout Iowa meat and poultry processing plant workers at an alarming rate. The Midwest Center for Investigative Reporting and other news sources have reported that 3,840 meatpacking workers in Iowa have tested positive for COVID-19; many were hospitalized and some have died.[29] This is primarily due to a combination of the proximity of workers who stand close together for hours at a time on the line and harmful leave policies that push workers to come to work sick.[30]

The number of Iowa Tyson meatpacking workers who have contracted COVID-19 illustrate the impact of these hazards. 1,031 workers in the Waterloo plant are known to have tested positive for COVID-19; as did 522 workers in the Columbus Junction plant, and 730 workers (amounting to 58 percent of tested workers) at the Perry plant.[31]

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[26] October 4, 2020 OSHA Records, *supra* note 2.

[27] OSH Act of 1970, Pub. L. 91-596, § 5(1)(a), 84 Stat. 1590 (amended 2004).

[28] Clark Kauffman, *COVID-19 Infections in Iowa Nursing Homes are Up 66% in Three Weeks*, IOWA CAPITOL DISPATCH (Aug. 13, 2020), https://iowacapitaldispatch.com/2020/08/12/covid-19-infections-in-iowa-nursing-homes-are-up-66-in-three-weeks/.

[29] Donnelle Eller, *$750,000 donation to help immigrant farmworkers, meatpacking workers struggling with COVID-19 in Iowa*, DES MOINES REGISTER (Oct. 13, 2020), https://www.desmoinesregister.com/story/money/agriculture/2020/10/13/covid-iowa-immigrant-meatpacking-farmworker-aid-anonymous-donation/3639309001/; Leah Douglas, *Mapping Covid-19 outbreaks in the food system*, FOOD & ENVIRONMENT REPORTING NETWORK (Apr. 22, 2020), https://thefern.org/2020/04/mapping-covid-19-in-meat-and-food-processing-plants/.

[30] *See* Leys, *supra* note 6; Heather Schlitz, *Meatpacking workers say attendance policy forces them to work with potential Covid-19 symptoms,* MIDWEST CENTER FOR INVESTIGATIVE REPORTING (Oct. 20, 2020), https://investigatemidwest.org/2020/10/20/meatpacking-workers-say-attendance-policy-forces-them-to-work-with-potential-covid-19-symptoms/

[31] *Id.; see also* Donnelle Eller, *Number of Workers with Coronavirus at Waterloo Tyson Plant More than Double Earlier Figure*, DES MOINES REGISTER: AGRICULTURE (May 8, 2018, 2:47 PM CT), https://www.desmoinesregister.com/story/money/agriculture/2020/05/07/infected-workers-waterloo-plant-more-than-double-earlier-figure/3092376001/; Ryan J. Foley, *Outbreak at Iowa Pork Plant Was larger than State Reported*, WASH. POST: BUS. (July 22, 2020), https://www.washingtonpost.com/business/outbreak-at-iowa-pork-plant-was-larger-than-state-

Iowa OSHA failed to protect workers in Iowa meatpacking plants by failing to conduct inspections in response to complaints. A few of the numerous examples of this problem are highlighted below, but we request that Federal OSHA examine Iowa OSHA's response to every meatpacking complaint filed concerning COVID-19.

JBS/Swift Pork Processing Plant-Marshalltown, Iowa

On April 1, 2020 the League of United Latin American Citizens (LULAC) contacted Iowa OSHA, asking it to provide clear and uniform guidelines to the JBS Meatpacking Plant in Marshalltown and elsewhere due to unsafe working conditions.[32] The complaint stated

> "1. Employees are exposed to COVID-19 due to the high density of employees that work in close proximity. This includes most cutting rooms, processing rooms, break rooms, dressing rooms. Employees are still working shoulder to shoulder.
> 2. Employees are limited on their personal protective equipment.
> 3. Employees are required to work with signs and symptoms of COVID-19."[33]

This complaint alleged that workers were exposed to potentially serious physical harm and death from the imminent danger of being infected with COVID-19 at work. This met the criteria for Iowa OSHA to conduct an on-site inspection because it alleged an imminent danger existed.[34] In fact at least one worker did die.[35] Yet, instead of conducting an on-site inspection, OSHA merely sent a letter to the employer with the complaint and OSHA guidelines.[36] When JBS responded that the complaint "lacked merit" and set forth what actions it asserted it had taken to protect workers, Iowa OSHA failed to follow up. It made no further inquiry into those claims, did not conduct an on-site inspection, and closed the case.[37]

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reported/2020/07/22/5a47c9fe-cc32-11ea-99b0-8426e26d203b_story.html; *also* Ryan Foley, *Regulators sat on complaint as COVID-19 outbreak at Iowa meat plant grew*, ASSOCIATED PRESS (May 18, 2020), https://www.desmoinesregister.com/story/news/2020/05/18/coronavirus-iowa-regulators-sat-complaint-covid-19-outbreak-perry-meat-plant-grew-tyson/5217085002/.

[32] October 4, 2020 OSHA Records, *supra* note 2. Search/sort for 4/1/2020 complaint receipt date and Swift Pork Company DBA JBS. *See also* Appx. Ex. 3.

[33] *Id.*

[34] Iowa OSHA FOM, IOSH Instruction IACPL 02-00-160 at ch. 9-I(C)(4).

[35] Tyler Jett, *'They Could Have Done More': Daughter of Marshalltown Meatpacking Plant Worker Blames JBS for his COVID-19 Death*, *'They could have done more': Daughter of Marshalltown meatpacking plant worker blames JBS for his COVID-19 Death*, DES MOINES REGISTER: NEWS, https://www.desmoinesregister.com/story/news/2020/05/20/coronavirus-in-iowa-daughter-meat-packing-worker-jbs-his-covid-19-death/5223658002/.

[36] Appx. Exs. 3-4.

[37] *Id.* After ignoring LULAC's complaint, Iowa OSHA later did conduct an inspection of JBS in Marshalltown, on May 21, 2020, only *after* the media reported on significant outbreaks in the plant. Foley, *supra* note 31. This was part of a pattern identified in the CASPA complaint: after failing to respond to worker complaints with needed on-site inspections, Iowa OSHA later conducted inspections following important media reports about the harm that might have been

Following Iowa OSHA's failure, the number of cases rose dramatically and at least one worker died. Though plants are not releasing the numbers of workers testing positive, and we may therefore never know accurate totals, the state Department of Public Health has reported 944 positive cases in Marshall County where the plant is located—the sixth highest number of cases per capita in all of Iowa's 99 counties.[38]

Agri Star Processing Plant-Postville, Iowa

On April 8, 2020, Iowa OSHA received a complaint about grave and imminent dangers at Agri Star Meat and Poultry plant in Postville, Iowa.[39] The complaint stated:

> "1. Employees are exposed to COVID-19. The employer is not following guidelines that have been established to reduce the exposure to Coronavirus pandemic. Employees work in close proximity. Several employees are required to come to work ill. One person was admitted to the hospital. The employer has not provided personal protective equipment. 2. Management is telling workers that 'COVID-19 is a lie and it has been made up by the government. People are using the pandemic as a way to get out of work, but they are not ill.'"[40]

This complaint met the Iowa OSHA Field Operation Manual criteria for warranting an inspection, because it alleged that workers were suffering from physical harm and/or imminent danger.[41] Yet Iowa OSHA did not open an inspection. They merely sent a letter to the employer, received a letter back from this employer, and then closed the case with no inspection.[42] A month

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prevented by responding an underlying worker or worker-advocate complaint in the first place. The Iowa OSHA inspection of JBS in May also followed widespread media reports about the passing of Jose Andrade Garcia, a worker at JBS. His daughter Maria Andrade told the Register that JBS "should have given employees masks and gloves sooner" and was "too slow to install dividers that separate workers." Jett, *supra* note 35. As the CASPA Complaint highlights, the later inspections were inadequate to protect workers. *See infra*, Part 2.

[38] Tyler Jett, *Iowa JBS Meatpacking Employees Warned of 'Excessive Absenteeism' as Pandemic Continues* DES MOINES REGISTER: BUSINESS (June 18, 2020, 5:54 PM CT), https://www.desmoinesregister.com/story/money/business/2020/06/17/covid-19-iowa-letter-warns-meatpacking-workers-excess-absences/3202317001/.

[39] *See* Appx. Ex. 5. *See also* October 4, 2020 OSHA Records, *supra* note 2. Search for "Agri Star Meat and Poultry LLC". The situation at Agri Star was so concerning, and the state's response so inadequate, that it inspired a tumor geneticist, Paraic Kenny, from Lacrosse, Wisconsin to dedicate his lab to COVID-19 research. *The Code: How Genetic Science Helped Expose a Secret Coronavirus Outbreak*, WASH. POST, https://www.washingtonpost.com/graphics/2020/national/genetic-science-coronavirus-outbreak-iowa/?no_nav=true&p9w22b2p=b2p22p9w00098&tid=a_classic-iphone (Sept. 24, 2020).

[40] *See* Appx. Ex. 5. *See also* October 4, 2020 OSHA Records, *supra* note 2. Search for "Agri Star Meat and Poultry LLC".

[41] Iowa OSHA FOM, IOSH Instruction IACPL 02-00-160 at ch. 9-I(C).

[42] *See* Appx. Ex. 7. Relying solely on the employer to self-enforce OSHA standards is especially troublesome in cases, such as this, where workers have complained that the employer

later there were at least 400 positive COVID-19 cases in the plant.[43] Had Iowa OSHA not completely failed to respond and inspected this workplace it is likely that the widespread outbreak of serious illness in this plant could have been mitigated or prevented.

Tyson Plant-Perry, Iowa

On April 14, 2020, a complaint about the Tyson Foods Pork plant in Perry, Iowa was filed with Iowa OSHA that said: "Employees are exposed to COVID-19 as 1,300 employees are elbow to elbow. The employer is not following social distancing guidelines. This includes production floor in all areas and cafeteria."[44]

Iowa OSHA did not inspect the Tyson plant following this complaint, despite the fact that it asserted that the employer was not following the basic Centers for Disease Control (CDC) guidance for mitigating the spread of COVID-19, and by that time it was widely understood that meatpacking workers throughout the country were getting sick and in some cases dying from COVID-19 outbreaks.[45] According to its own standards, Iowa OSHA should have inspected the Tyson plant following this complaint, because it reasonably alleged that workers faced imminent danger, as well as severe and permanent illness—and possible death.[46] Instead, OSHA merely sent a letter to the employer, asked for a response, and closed the case.[47]

Iowa OSHA took an unreasonable amount of time even to take this minimal action, waiting nine days to send a letter to the employer, and allowing the employer to take eight more days to respond to the agency:

> Workers and regulators had reason to be alarmed. The Tyson plant in Columbus Junction was idled days earlier due to an outbreak that infected hundreds of workers, and it had been rerouting hogs to Perry for slaughter. Other meat plants nationwide were reporting outbreaks and closures. But Iowa OSHA took nine days to seek a response from Tyson, and it was eight more days before it heard back, according to documents obtained by The Associated Press under the open records

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is providing false information to workers regarding imminent dangers (here, allegedly telling workers COVID-19 was a "lie" and that workers out sick weren't really sick).

[43] *400 Employees Tested for COVID-19 at AgriStar*, POSTVILLE HERALD (updated May 8, 2020), http://postvilleherald.com/?q=content/covid-19-testing-site-agri-star.

[44] *See* Appx. Ex. 8. *See also* October 4, 2020 OSHA Records, *supra* note 2. Search for the "Tyson Foods" complaint submitted 4/11/2020 in the Excel sheet. *See also Complaint Number 1570949 – Tyson Fresh Meats, Inc.*, BLEEDING HEARTLAND https://www.bleedingheartland.com/static/media/2020/06/Tyson_Perry_UPA_1570949_Complaint.pdf (last visited Oct. 21, 2020).

[45] *Id.*

[46] Iowa OSHA FOM, IOSH Instruction IACPL 02-00-160, ch. 9 at § I(C)(3), (4).

[47] *See* Appx. Ex. 9; October 4, 2020 OSHA Records, *supra* note 2. Search for the "Tyson Foods" complaint submitted 4/11/2020 in the Excel sheet. Only those entries with a number entered into the "Insp ID" field were inspected.

law. The agency determined April 28 that Tyson's voluntary efforts were "satisfactory" and closed the case without an inspection.[48]

Just one week after Iowa OSHA closed the case without an inspection, an outbreak of COVID-19 raced through the Perry Tyson plant.[49] "The Iowa Department of Public Health announced that 730 workers at the Perry plant had tested positive for the coronavirus—58% of its 1,250 employees."[50]

It is unknown how many cases could have been prevented had Iowa OSHA taken swift and appropriate action to inspect the facility.

Iowa OSHA's Failure to Investigate Imminent Danger Complaints in the Construction Trades

Since as far back as 2017, Construction Analysts for the Indiana, Illinois, Iowa Foundation for Fair Contracting (III FFC)[51] have submitted numerous referrals/complaints to Iowa OSHA regarding hazardous working conditions in construction sites across eastern & southeastern Iowa.[52]

Iowa OSHA routinely fails to follow the guidance in its own Field Operations Manual (FOM) standards in classifying and investigating III FFC complaints. While these are considered "non-formal" complaints because they are not submitted by an affected employee, each safety hazard was observed by an III FFC Construction Analyst and typically documented with photographs supporting the alleged hazard. Specifically, Iowa OSHA has failed to record III FFC's referrals alleging hazardous conditions covered by National Emphasis Programs (i.e., trenching/excavation or respirable crystalline silica) as *imminent dangers.* As a result, Iowa OSHA has merely undergone a "phone/fax" inquiry to the employer instead of doing a jobsite inspection, as is required for imminent dangers.[53]

Responses to III FFC's open records requests show that none of its five referrals regarding respirable crystalline silica exposure and none of the five referrals regarding excavation hazards submitted since 2017 have been classified as imminent dangers. Instead, Iowa OSHA classified them as *serious* hazards. Iowa OSHA performs only "phone and fax" inquiries to the employer to assess serious hazards, without performing an onsite inspection. So long as the employer responds within five days, IOSHA closes the inquiry.

The III FFC submitted the following referrals regarding health and safety hazards covered by National Emphasis Programs to Iowa OSHA over the past several years. Iowa OSHA has classified all of them as something other than imminent dangers, and as a result has failed to investigate all of them with an on-site inspection:

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[48] Foley, *Outbreak at Iowa Pork Plant Was larger than State Reported*, *supra* note 31.

[49] *Id.*

[50] *Id.*

[51] The III FFC is a labor-management organization, funded solely through participating contractors, established to support, promote and encourage fair contracting.

[52] *See* Appx. Ex.10.

[53] Iowa OSHA FOM, IOSH Instruction IACPL 02-00-160, ch. 9 at § I(C)(4).

- 2017-6-26: excavation hazard referral re: KE Flatwork in Muscatine, IA
- 2018-11-20: excavation hazard referral re: Legacy Corp of IL in Clinton, IA
- 2019-10-15: respirable crystalline silica referral re: Culver's Landscaping in Davenport, IA
- 2019-11-6: respirable crystalline silica referral re: BWC in LeClaire, IA
- 2020-4-2: excavation hazard referral re: Legacy Corp of IL in Davenport, IA
- 2020-5-27: respirable crystalline silica referral re: Manatt's in Clinton, IA
- 2020-6-12: respirable crystalline silica referral re: Streb Construction in Burlington, IA
- 2020-6-23: excavation hazard referral re: BWC in Davenport, IA
- 2020-8-28: respirable crystalline silica referral re: Hickey Contracting in Burlington, IA
- 2020-9-3: excavation hazard referral complaint re: BWC in Davenport, IA.

On August 24, 2020, the IIIFFC submitted a respirable crystalline silica exposure referral to Iowa OSHA by email.[54] Iowa OSHA Senior Industrial Hygienist Russell Sawvel responded to the referral by stating "I do not believe this is an imminent danger."[55] Iowa OSHA made this determination despite the fact that III FFC submitted the complaint with supporting photographs and documentation.[56] In response to III FFC's inquiry as to why Iowa OSHA was not classifying the referral as an imminent danger, Mr. Sawvel responded with a hyperlink to federal OSHA's webpage defining "Imminent Danger."[57]

However, the hyperlink provided by Mr. Sawvel defines an imminent danger as "any conditions or practices in any place of employment which are such that a danger exists which could reasonably be expected to cause death or serious physical harm immediately or before the imminence of such danger can be eliminated through the enforcement procedures otherwise provided by this Act."[58] The requirement for an imminent danger is further defined: "For a health hazard there must be a reasonable expectation that toxic substances or other health hazards are present and exposure to them will shorten life or cause substantial reduction in physical or mental efficiency. The harm caused *by the health hazard does not have to happen immediately*."[59] Exposure to respirable crystalline silica has been identified as a National Emphasis Program priority because it can shorten life or cause substantial reduction in physical or mental efficiency.[60] Thus, the national OSHA definition that Mr. Sawvel provided demonstrates that he misclassified the complaint. According to the definition of imminent danger, he should have classified it as an imminent danger and conducted an inspection.

In addition to referrals alleging health hazards with respect to respirable crystalline silica, it appears that Iowa OSHA has never classified III FFC referrals or complaints that concern

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[54] *See* Appx. Ex. 17.
[55] *Id.*
[56] *Id.*
[57] *Id.*
[58] *Id.*; OSHA, Imminent Danger, https://www.osha.gov/as/opa/worker/danger.html.
[59] *Id.* (emphasis added.)
[60] *See, e.g.,* OSHA, Silica, Crystalline, https://www.osha.gov/dsg/topics/silicacrystalline/index.html.

trenching/excavation hazards as imminent dangers, as evidenced by responses to III FFC's open records requests.[61] During a phone conversation between III FFC staff and Mr. Sawvel on August 24, 2020, Mr. Sawvel explained that said hazards must be extraordinarily apparent, such as observing actively collapsing excavations, to be considered imminent dangers. He indicated that anything less would not result in Iowa OSHA's intervention beyond a "phone/fax" inquiry to the employer. However, like in the case of respirable crystalline silica, the very existence of OSHA's National Emphasis Program for trenching/excavation, and the countless tragic examples of trenches collapsing without notice that led to its inclusion in the National Emphasis Program, contradicts Iowa OSHA's definition.[62] Iowa OSHA's policy of misclassifying these complaints puts Iowa workers at great risk.

III FFC operates on both sides of the state line between Iowa and Illinois, providing a useful comparison between Iowa's state-run OSHA plan and Illinois' federal plan.[63] The differences between federal OSHA and Iowa OSHA in responding to virtually identical complaints demonstrates Iowa OSHA's deficiency. Complaints and referrals filed by III FFC with federal OSHA involving similar hazards resulted in inspections. For example, one of III FFC's Construction Analysts submitted a referral to the Peoria, IL OSHA office on September 20, 2019 regarding an excavation hazard.[64] The Peoria, Illinois Federal OSHA office sent III FFC a letter acknowledging the complaint on September 24, 2019 and performed an on-site inspection of the jobsite by September 25, 2019.[65] The inspection resulted in two citations for the contractor.[66] Separated only by a river, identical jobsite complaints in Iowa and Illinois are getting very different investigative and enforcement results from Iowa OSHA and Illinois's Federal Program.[67]

2. When Iowa OSHA did conduct on-site inspections following COVID-19 complaints, those investigations were inadequate.

As demonstrated above, Iowa OSHA has done very few COVID-19 related on-site inspections to date. Federal OSHA FOIA information shows that of 148 worker complaints closed by October 4, 2020, only 5 resulted in an on-site inspection.[68] Only after public outcry and media reports of outbreaks in Iowa meatpacking plants did Iowa OSHA conduct additional

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[61] *See* Appx. Ex. 10.

[62] OSHA, Trenching and Excavation, https://www.osha.gov/trenching-excavation.

[63] Illinois is a federal OSHA state, except as for Illinois' public employees, who are covered through a state plan.

[64] *See* Appx. Ex. 10.

[65] *Id.*

[66] *Id.*

[67] *Id.*

[68] *See* October 4, 2020 OSHA Records, *supra* note 2. The number of Iowa complaints were found by sorting for "IOWA" in the "Establishment Name Site City-State-Zip" field of the October 4, 2020 excel spreadsheet. Of the 148 total Iowa complaints, only those 5 complaints of the 148 total Iowa complaints that contain a number in the "Insp. ID" column were inspected.

on-site inspections. It has completed on-site inspections of seven known plants to date.[69] However, these inspections were inadequate.

Two examples are the Iowa OSHA Inspection of Tyson Fresh Meats in Waterloo, Inspection number 1473229.015, and Iowa OSHA Inspection of Tyson Fresh Meats in Columbus Junction, Iowa Inspection Number 1473909.015.[70]

The Black Hawk County Sheriff, who visited the Tyson meatpacking plant in Waterloo, Iowa in April described the conditions for workers:

> "We walked into that plant and some people are wearing homemade masks, some people are wearing bandannas, and some people aren't wearing anything," Thompson said. "They're working elbow-to-elbow. Some are reaching over the top of others on the food production lines. They deep clean once a night. They felt like they were doing a good job, and we walked out of there thinking, 'Oh my goodness, if this is the bare minimum, this isn't enough.' . . . .
>
> "I think Tyson is focused on production, period," Thompson said. "I don't think Tyson gives two (expletive) about who is filling one particular spot on the production floor that day. I think they are purely concerned about productivity at that plant.[71]

On April 19, 2020, Iowa state lawmakers filed a complaint with Iowa OSHA about the unsafe and dangerous conditions in the Waterloo Tyson plant.[72] Workers were getting sick and in some cases dying from COVID-19.[73]Iowa OSHA initiated an on-site inspection on April 20, 2020.[74] During the time Iowa OSHA was conducting the inspection, the number of workers infected in the plant and the number of COVID-19 related fatalities multiplied.[75] By early May, there were 1,000 infected workers.[76] Three weeks later on May 25, 2020, as the Iowa OSHA inspection was ongoing, it was reported that five workers in that plant had died from COVID-19.[77] Despite the alarmingly high numbers of work-related serious illness and death and evidence that workers were not social distancing, on June 23, 2020, Iowa OSHA closed its case.[78] Iowa

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[69] *See* Belin, *supra* note 4.
[70] *See* Appx. Exs. 1-2.
[71] Birch, *supra* note 6.
[72] *See* Appx. Ex. 11.
[73] *Id.*
[74] *See* Appx. Ex. 1.
[75] Eller, *supra* note 31.
[76] *Id.*
[77] Associated Press, *5th Waterloo Tyson Worker Dies After Long Battle with COVID-19*, KWWL (May 25, 2020, 6:06 PM), https://kwwl.com/2020/05/25/5th-waterloo-tyson-worker-dies-after-long-battle-with-covid-19/.
[78] Ryan J. Foley, *Iowa Finds No Violation at Tyson Plant with Deadly Outbreak*, DES MOINES REGISTER: EDUCATION (June 23, 2020, 6:17 PM CT),

OSHA found no violations and thus did not cite the company for any violations of the OSHA law.[79]

Iowa OSHA opened an inspection of the Tyson Fresh Meat Plant in Columbus Junction on April 30, 2020 in response to media reports of deaths from COVID-19 in the plant.[80] Tyson told Iowa OSHA that there were 522 positive cases in the plant, and at least two workers had already died by the time Iowa OSHA was in the plant.[81] As with the Tyson plant in Waterloo, Iowa, Iowa OSHA said they inspected the Columbus Junction plant, and then closed the case without issuing any citations for violations.[82]

CDC guidance on the key protections needed to mitigate the spread of COVID-19 in meatpacking plants has been consistent since early April. The CDC recommends everyone should wear a mask and remain six feet apart.[83]

The records of both inspections, obtained through open records requests, show that Iowa OSHA inspectors did not conduct adequate inspections.[84] For example, Iowa OSHA did not cite the plants for not following the CDC's basic guidance that was in place prior to the inspections. At the time of the on-site inspections (and even until today), these two Tyson facilities *still* had workers on the plant's production lines working elbow to elbow, not six feet apart.[85]

The documents show that instead of complying with CDC guidance to provide conditions where workers could work six feet apart, workers were working shoulder to shoulder and elbow to elbow. Instead of moving workers six feet apart, the plants installed plastic barriers between workers.[86] The Iowa OSHA inspection records contain no evidence that Iowa OSHA sought data

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https://www.desmoinesregister.com/story/news/education/2020/06/23/iowa-osha-clears-waterloo-tyson-foods-pork-plant-violations-coronavirus-outbreak/3247008001/.

[79] *Id.*

[80] *See* Appx. Ex. 1-2.

[81] Ryan J. Foley, *Outbreak at Iowa Pork Plant Was larger than State Reported*, *supra* note 31.

[82] *See* Appx. Ex. 1.

[83] *How to Protect Yourself and Others*, CENTERS FOR DISEASE CONTROL (Sept. 11, 2020), https://www.cdc.gov/coronavirus/2019-ncov/prevent-getting-sick/prevention.html; Lena H. Sun & Josh Dawsey, *New Face Mask Guidance Comes After Battle Between White House and CDC*, WASH. POST. (April 3, 2020, 9:36 PM CDT), https://www.washingtonpost.com/health/2020/04/03/white-house-cdc-turf-battle-over-guidance-broad-use-face-masks-fight-coronavirus/.

[84] Appx. Exs. 1-2.

[85] *See* Appx. Exs. 1-2; 12.

[86] *See* Appx. Ex. 12.

on the effectiveness of barriers to protect workers from the spread of COVID-19.[87] Nor is there evidence that this measure offers any protection when workers are working elbow to elbow.

By April 20, 2020, the CDC and National Institute for Occupational Safety and Health (NIOSH) communicated to the public and the meatpacking industry that plastic barriers were to be used in addition to social distancing, not as a substitute. The CDC provided that they are to be used as markers, so workers know where to safely stand and do their work. The barriers serve as means of separating workers—so they know not to drift too close together. In their report on strategies to control the rampant spread of COVID-19 at the Smithfield plant in South Dakota, the CDC says that plastic barriers "should be used in combination with (and not replace) other social distancing, hand hygiene, and personal protective equipment efforts outlined in these recommendations, wherever feasible."[88] Likewise, in their report on strategies to reduce COVID-19 transmission at the JBS Greeley Beef Plant in Colorado, the CDC provided: "The effectiveness of physical barriers in preventing coronavirus exposures between physically close workers is not known. Physical barriers should not be used as a replacement for maintaining at least 6 feet between workers."[89]

These CDC reports make clear that these barriers are not a substitute for protecting workers with physical distancing on production lines in the meatpacking industry. Iowa OSHA should not have accepted the plants' failures to require workers on production lines to remain 6 feet apart on the basis of their installation of plastic dividers, especially when their effectiveness to protect workers has not been established.

3. Iowa OSHA enforcement provisions and policies are inadequate.

Federal law requires that state OSHA "provides for the development and enforcement of safety and health standards relating to one or more safety or health issues, which standards (and the enforcement of which standards) are or will be at least as effective in providing safe and healthful employment and places of employment as" Federal OSHA. [90] But Iowa OSHA's FOM

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[87] *See* Appx. Exs. 1-2; *see generally Inspection: 1473229.015 – Tyson Fresh Meats*, OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION, https://www.osha.gov/pls/imis/establishment.inspection_detail?id=1473229.015 (last visited Oct. 20, 2020); *Inspection: 1473909.015 – Tyson Fresh Meats*, OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION, https://www.osha.gov/pls/imis/establishment.inspection_detail?id=1473909.015 (last visited Oct. 20, 2020).

[88] *Id.*

[89] CDC, Memorandum (May 10, 2020), *Strategies to reduce COVID-19 transmission at Cargill Protein, Dodge City, Kansas*, https://www.coronavirus.kdheks.gov/DocumentCenter/View/1240/CDC-KDHE-Cargill-Memo-PDF---5-10-20.

[90] 29 U.S.C. § 667(c).

setting out the criteria warranting an inspection in response to non-formal complaints are not as effective as Federal OSHA's and do not provide as effective protections as Federal OSHA.[91]

Federal OSHA provides that nonformal complaints should result in an inspection when "[t]he information alleges that an imminent danger situation, a violation of the Act or of an OSHA standard exists, that exposes employees to a potential serious physical or health hazard in the workplace."[92]

By contrast, Iowa OSHA provides that nonformal complaints should result in an inspection when either "[t]he information alleges that a permanently disabling injury or illness has occurred as a result of the complained of hazard(s), and there is reason to believe that the hazard or related hazards still exist" or "[t]he information alleges that an imminent danger situation exists."[93]

Thus, absent an imminent danger, federal OSHA will inspect following a nonformal complaint alleging that there has been a violation of OSHA law or standards which exposes employees to *a risk* of a serious physical or health hazard. But even if those conditions exist, Iowa OSHA will not investigate unless a permanently disabling injury or illness has *already* occurred, absent imminent danger.

By federal OSHA law and standards, Iowa OSHA should never wait until a worker is permanently disabled to determine an inspection is warranted. Employers have an obligation to protect workers from hazards that are causing *or are likely to cause* death or serious physical harm to employees.[94] The law does not only protect employees after someone is killed or permanently injured. Thus, Iowa OSHA's standards are inadequate and leave Iowa workers with protection which is not as effective as federal OSHA.

4. Iowa OSHA has made it too difficult for workers in the state to file complaints with the agency, thereby abridging worker rights and failing to be "as effective as" federal OSHA.

Iowa OSHA's website instructs workers that to file a complaint, a worker must download a form, print out the form, fill it in, and then mail it back to Iowa OSHA.[95] Iowa OSHA does

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[91] *Compare* Iowa OSHA Field Operations Manual, IOSH Instruction IACPL 02-00-160 at ch. 9-I(C) (Feb. 11, 2018), *with* OSHA Field Operations Manual, CPL 02-00-164, 9-3 (2020). Formal complaints are those which are signed by workers. Nonformal complaints are those which are not signed by a worker.

[92] *Id.* ch. 9-I(C)(3).

[93] Iowa OSHA Field Operations Manual, IOSH Instruction IACPL 02-00-160 at ch. 9-I(C) (Feb. 11, 2018).

[94] OSH Act of 1970, Pub. L. 91-596 at § 5(1)(a).

[95] Iowa Workforce Development, Iowa OSHA Enforcement, https://www.iowaosha.gov/iowa-osha-enforcement.

not list or explain that complaints can be filed by phoning OSHA (1-800-321-6742), nor does it link to the Federal OSHA website's portal to file complaints online.[96]

By contrast, federal OSHA informs all workers in the 29 states under Federal OSHA jurisdiction that there are three ways to file a complaint: online, by mail, and by phone.[97]

This omission by Iowa OSHA discourages workers from filing complaints with the agency, because many workers don't have easy access to printers, or even computers, to print these forms.

The lack of complete and accurate information about how to file a complaint is a serious deficiency that must be corrected. Iowa OSHA should be informing workers that they can file complaints by mail, online or by phone.

5. Iowa OSHA has too few inspectors who perform on-site health and safety investigations.

Iowa OSHA has an inadequate number of inspectors who perform on-site health and safety investigations. According to federal benchmarks, Iowa OSHA should have at least 13 health inspectors.[98] Despite its most recent report to federal OSHA indicating it has filled 10 of 13 health and safety inspector positions,[99] Iowa OSHA has represented to a number of the undersigned organizations at various times that they only have 3 inspectors working for them who can do on-site inspections.

For example, during an August 24, 2020 phone conversation between III FFC and Iowa OSHA, Mr. Sawvel explained that Iowa OSHA has only three inspectors available to perform on-site inspections. Due to the alleged repeat offense made by the employer being discussed during that phone call, Mr. Sawvel explained that Iowa OSHA would perform an on-site inspection for the referral, but said that the inspection would be delayed due to one inspector being on vacation, one being preoccupied with a fatality and not being sure where, geographically-speaking, the remaining third inspector was in the state.

It is essential that Iowa OSHA meet their staffing benchmarks and provide adequate training and direction to staff so that workers in Iowa are assured that enforcement is "as effective as" Federal OSHA. The low number of inspectors who apparently are trained and/or assigned to perform on-site health and safety investigations in the state raises serious questions about Iowa OSHA's capability to effectively inspect jobsites.

Federal OSHA must investigate whether Iowa OSHA is staffed appropriately, whether all staff holding the job titles required to perform on-site health and safety investigations are

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[96] *Id.*; OSHA, https://www.osha.gov/workers/file-complaint.

[97] OSHA, https://www.osha.gov/workers/file-complaint.

[98] *See* OSHA, *FY 2019 Comprehensive Federal Annual Monitoring Evaluation (FAME) Report, Iowa Workforce Development et al., Eval. Period Oct. 1, 2018-Sept. 30, 2019*, https://www.osha.gov/sites/default/files/2020-07/iowa_2019.pdf, at 7.

[99] *Id.* at 41.

actually trained to do those investigations, and whether staff are appropriately directed by agency management to actually do them.

6. **Iowa OSHA fails to provide sufficient information to complainants regarding the outcome of their complaints.**

Last, Iowa OSHA routinely fails to follow-up with complainants to let them know the outcome of their complaints.

For example, it was not until Iowa OSHA fulfilled the open records request we submitted in our investigation of Iowa OSHA's response to outbreaks at Iowa meatpacking facilities that LULAC learned that Iowa OSHA had closed its investigation of LULAC's referral on April 1, 2020 regarding JBS.[100]

In addition, III FFC has found that in response to the referrals/complaints it submitted, listed above, Iowa OSHA rarely even acknowledged receipt, much less provided follow-up information about the outcome of the complaints. To date, Iowa OSHA has *never* informed III FFC of the results of any investigations or inquiries following the organization's complaints/referrals.

To the contrary, complaining/referring organizations are required to file state open records requests with Iowa OSHA and are charged substantial fees to review the nonconfidential Iowa OSHA documents that resulted from their own referrals and complaints.[101]

This policy undermines workers' confidence in Iowa OSHA to properly enforce worker health and safety laws, deters complaints, and creates a perception that the agency has a problematic culture to avoid transparency or accountability about its own actions.

Conclusion

For the reasons set forth above, the undersigned organizations request a full investigation of all the allegations made in this CASPA.

Sincerely:

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[100] *See* Appx. Exs. 3-4.
[101] *See, e.g.,* Appx. Ex. 10.

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Legal Director
Iowa Justice for Our Neighbors (JFON)

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APPENDIX OF EXHIBITS

EXHIBIT 1

The inspection findings for the complaint items are listed below:

1. Employees are exposed to COVID-19 hazards. The Centers for Disease Control and Prevention guidelines are not being implemented

662-1000+ Tyson employees have tested positive for COVID-19. Tyson has conducted testing of all their employees. A greater percentage of Tysons' employees have tested positive when compared to the entirety of Black Hawk County. Tyson began implementing changes to protect workers from COVID-19 in March. They have provided and required their employees wear a face covering. Tyson has spread employees where possible, installed barriers between work stations, installed barriers on the cafeteria tables, added additional seating, and staggered breaks and shift starts to reduce employee contact.

2. Personal protective equipment is not available to employees.

Employees are provided with their normal personal protective equipment by the employer. At the time of the inspection a mask or face covering was required by employees and all visitors to the plant. The employer was providing fabric to be used as a mask to employees and was allowing employees to bring their own face coverings. Employees are now being provided with and required to wear surgical masks by the employer. The employer began encouraging employees' usage of masks on or about 4/6/2020 and required them on 4/14/2020.

3. Employees are reporting to work when they are ill. COVID-19 hazards are not effectively communicated to non-English speaking employees

Employees have been encouraged by Tyson to stay home if they are feeling ill. Tyson has suspended their point-based attendance policy. Every employee entering the facility has their temperature checked and employees displaying symptoms are sent home. There are nurses on staff for both shifts that employees can consult. There are employees that have been designated to act as translators to communicate with non-English speaking employees. Tyson has handed out written material and posted information around the facility in multiple languages.

4. Employees' temperature checks are inaccurate.

Employees' and visitors' temperatures are being checked as they enter the security gate of the facility. Nurses or trained employees have been taking temperatures with CEM Infrared Human Body Temperature Meters. These temperature meters measure human temperature at a range of 86-140 degrees Fahrenheit and have a precision of ±0.7 degrees Fahrenheit. They measure at a distance of 1-15 centimeters. There is also a FLIR A655sc High-Resolution Science Grade LWIR camera in use at the entrance. Everyone entering the facility walks past the camera. The camera's thermal sensitivity is 30 mK and measures objects with a range of -40 degrees Fahrenheit to 302 degrees Fahrenheit with an accuracy of ±2% of reading. The employer began checking employees' temperatures on 3/16/2020 and installed the FLIR A655sc on 3/28/2020.

5. Common areas are disinfected infrequently.

Production areas of the facility are cleaned daily by PSSI. Enhanced cleaning is being conducted of non-production areas of the facility. Some Tyson employees have been designated with janitorial work and are cleaning non-production areas as their job duties, especially touch points i.e. door knobs and

stair rails. PSSI is additionally conducting weekly fogging of common areas.

No citations were issued for this inspection.

NATURE AND SCOPE

Check Applicable Boxes and Explain Findings:

- ☒ Complaint Items
- ☐ Referral Items
- ☐ Accident Investigation Summary & Findings
- ☐ LEP
- ☐ Planned Inspection
- ☐ Follow-up Inspection

NATURE AND SCOPE – UNUSUAL CIRCUMSTANCES

- ☒ None
- ☐ Denial of entry
- ☐ Delays in conducting the inspection
- ☐ Strikes
- ☐ Jurisdictional Issues
- ☐ Trade Secrets
- ☐ Other

Comments:

RECORDKEEPING PROGRAMS
(Other than 29 CFR 1904 requirements)

Does the employer have a record keeping program relating to any occupational health issues (monitoring, medical, training, respirator fit tests, ventilation measurements, etc.)?

☐ Yes ☒ No

Are any programs required by OSHA health standards?

☐ Yes ☒ No

COMPLIANCE PROGRAMS
(engineering controls, PPE, regulated areas, emergency procedures, compliance plans, etc.)

Address any relevant compliance efforts regarding potential health hazards covered by the scope of inspection.

PERSONAL HYGIENE FACILITIES AND PRACTICES
(showers, lockers, change rooms, etc.)

Are any required by OSHA health standards?

☐ Yes ☒ No

What Standards:

HAZARD COMMUNICATION PROGRAM

Written Program (complete)

☒ Yes ☐ No

SDS's (all)

☒ Yes ☐ No

Labeling (adequate)

☒ Yes ☐ No

Training (complete)

☒ Yes ☐ No

Copy of SDS's/Program attached

☒ Yes ☐ No

Comments:

ACCESS TO EXPOSURE & MEDICAL RECORDS

☐ Yes ☐ No ☒ N/A

FIRE PROTECTION AND EVACUATION PROCEDURES/EMERGENCY ACTION PLAN

☐ Yes ☐ No ☒ N/A

EMERGENCY RESPONSE PLAN

☐ Yes ☐ No ☒ N/A

RESPIRATOR PROGRAM

☐ Yes ☐ No ☒ N/A

LOCKOUT TAGOUT / ELECTRICAL SAFE WORKPRACTICES

☐ Yes ☐ No ☒ N/A

FIRST AID

☐ Yes ☐ No ☒ N/A

ELECTRICAL SAFE WORKPRACTICES

☐ Yes ☐ No ☒ N/A

BBP EXPOSURE CONTROL PLAN

☐ Yes ☐ No ☒ N/A

LABORATORY STANDARD

☐ Yes ☐ No ☒ N/A

ERGONOMIC PROBLEMS

☐ Yes ☐ No ☒ N/A

If yes, complete items 1 and 2 below.

1. Lifting (10% or more similarly exposed employees injured)

    a. Total # of employees exposed to job:

    b. Total # of cases for job:

2. CTD's (10% or more similarly exposed employees have CTD's; 5% or more CTS cases)

    a. Total # of employees exposed to job:

    b. Total # of cases for job:

Other significant injury/illness trends

☐ Yes ☒ No

If yes, explain:

EVALUATION OF EMPLOYER'S OVERALL SAFETY AND HEALTH PROGRAM

☒ Yes ☐ No Employer has a Safety & Health Program

☒ Yes ☐ No Written

☒ Yes ☐ No Copy Attached

Evaluation of Safety and Health Program
(0=Nonexistent 1=Ineffective 2=Somewhat Effective 3=Completely Effective)

3 Written S&H Program

2 Communication to Employees

3 Enforcement

2 Safety Training Program

2 Health Training Program

- Accident Investigation Performed

- Preventive Action Taken

Comments:

CLOSING CONFERENCE:

Were any unusual circumstances encountered such as, but not limited to, abatement problems, expected contest and/or negative employer attitude? If yes, explain below:

☐ Yes ☒ No

Closing Conference Checklist ("x" as appropriate)

☒ No Violations Observed

☒ Gave Copy Employer Rights

☒ Reviewed Hazards and Standards

☒ Discuss Employer Rights/Obligations

☒ Encouraged Informal Conference

☒ Offered Abatement Assistance

☒ Discussed Consultation Programs

☒ Employer/Employee Questionnaires

Closing Conference held with Employee Representative

☒ Jointly ☐ Separately

EXHIBIT 2

GENERAL INDUSTRY NARRATIVE

Tyson Fresh Meats Corp | Inspection # 1473909

On April 30, 2020, CHSO Bohn and I traveled to 16198 Highway 70 North, in Columbus Junction, Iowa, to perform an inspection at the Tyson Fresh Meats plant. The inspection was made from media referral stating that Tyson had two deaths related to the COVID-19 pandemic. The inspection was in regard to the spread of COVID-19. CSHO Bohn and I arrived onsite at about 11:00 AM. We entered the plant which produces pork worldwide. Tyson fresh meats in Columbus Junction is non Union Facility. Going through the security entrance on the north west corner of the facility, we met security behind a glass barrier. We took note of the glass barrier and the hand sanitizer dispenser to the left of the window that all the employees use when entering the facility. We also took note of the infrared temperature scanner that sense the temp of every person that passes through the security entrance before entering the facility. The security guard watches the scan of each person as they pass through and if someone exceeds the 37.5 Celsius they are denied access to the facility. The employees are also issued disposable masks when they enter, even if they have their own, homemade masks.

After a short five minute wait we were met by Brent McElroy, the plant manager. Brent escorted us into the facility, walking through a large tent and to a conference room. The conference room had plexi-glass on top of the table to keep people from breathing on each other. McElroy was the company representative that was in charge of safety at the present day, as both the safety manager, and nurse manager, were not working. After a short wait we were met by Emmanuel Hayford, the human resources manager. The two managers got into contact with the district safety manager, and two other representatives, who joined us via the conference by phone. At approximately 12:00pm an opening conference per Iowa "FOM" was held with the following people.

Brent McElroy – Plant manager
Emmanuelle Hayford – Human Resource Manager
Will Sager – Senior HR Manager
Laurie Garcia – Area Safety manager
Shannon Jandorf – Senior Council Tyson Enterprise

I explained the reason for the inspection and that it was in regards to a Media Referral that was received about two possible deaths. It was stated by Shannon Garcia that a survey had been submitted to Iowa OSHA previously and posted for the employees to see. I explained that we would go ahead and perform an inspection per the referral. I explained the nature of the inspection and that it was related to the Covid-19 outbreak. I also stated that I would be focused on the outbreak and their mitigation efforts, programs, however if during the inspection other hazards were identified, that we would also address them.

I next asked for permission to proceed with the inspection at 12:05pm and it was granted with a verbal yes from Brent McElroy the plant manager for Tyson. 300 and 300a logs were requested at 12:15 PM as well as the Safety and health Program, Covid-19 plan current and previous to April 5 when the shutdown took place. I also requested Tyson's hazardous communications program, and information relating to the two individuals that passed away from Covid-19. It was stated in the opening by Shannon Jandorf that Tyson had submitted a survey back to Iowa OSHA and even posted the notification of OSHA posting on April 20th for the employees, however no survey had been received by

IOSHA at the time of the inspection. It was stated as well by Mc Elroy that he was in charge of the Covid-19 response efforts at the facility and delegated authority to others as well to help monitor, facilitate, and enforce social distancing since the company has over 1000 people on the A shift during the day. He stated that they had been working to promote social distancing as well as adding sanitation and had temporarily made changes to the absentee policy where employees don't receive points for missing work due to being sick for being sick, being around someone who are sick, or having family they don't want to expose to the virus or just didn't feel comfortable coming to work.

The walk around began at 1:00pm just outside the conference room, where we observed a hand sanitizer dispenser for all employees in the offices. We also observed Plexiglas dividers for the receptionist to protect against the virus while talking to employees. The walk around then moved to the cafeteria, where there are Plexiglas barriers set up on every table, and every other seat was x'd out to keep the employees from sitting within 6 feet of each other. The way the x's are arranged, people sit diagonally from each other and a large tent had been set up to increase the break area for the employees to keep them socially distanced. There are also many posters within the cafeteria that explain the importance of social distancing, and explain about how to protect oneself from COVID and measures to take to reduce its spread. These posters are displayed in several languages that are spoken at the plant; English, French, Spanish, and Chin. We then moved to the "cold room" where the meat products are shaped and packaged. This is also the processing room. The clock in area is a sensor that employees scan their badges. Employees wear gloves throughout the entire plant; even so, hand sanitizer stations were found throughout the production area. There were plastic barriers between the work stations, separating employees. There were also dividers down the middle of the lines, barricading the employees on each side of the line.

After inspecting the production area, we moved to the "hot room" or the kill floor, where the pigs are disassembled into the multiple products. There were clear plastic barriers between employees on the lines in this area as well. After the kill room, we moved through the male locker room. The locker room has extra sanitizing being done and is fogged and cleaned with a chemical called Pure. After the locker room, we returned to the conference room. We noted that all of the employees were wearing face masks, face shields, hard hats, and smocks. The masks and shields served to protect from exposure.

A brief initial closing conference was held at 1:45pm with Brent and Emmanuel. I explained the closing conference guide and that the next process would be performing the employee interviews over the phone to keep the exposure risks minimal.

At 2:00pm we exited the facility.

Inspection findings per the complaint

There were two employees who potentially passed from complications related to Covid-19 and or other possible underlying medical conditions.

Covid-19 response procedures were requested during the day of the inspection. The documents show that the company was trying to follow the best CDC guidance at the given time, and changes to the guidance were rapidly changing daily from March until the beginning of April to when the shutdown occurred. Travel restrictions were put into place early on for individuals traveling from overseas and in

February team members were encouraged to stay home if they were not feeling well, this including a relaxed attendance policy that started in Late February. The guidance in the middle of March, stated that the employees should be social distancing and to not have any large crowds. Tyson had at least 1000 people on day shift alone to perform production operations with 150 on B, and 150 on C shift according to the HR manager at the opening conference Emmanuel Hayford. At the current time the CDC did not have guidance on face coverings. By March 20th the company had been social distancing, spreading out breaks/lunches and performing temporal temperature checks of anyone entering the facility and asking anyone with symptoms to remain home. Literature was also posted through the facility in multiple languages to communicate the need to social distance. There had also been enhanced sanitation by employees in break areas, bathrooms, locker rooms, meat lines, and throughout the facility and extra oversight by managers to strictly enforce this. Employees with symptoms and those in proximity to anyone who was diagnosed with the virus would need to quarantine as well. Extra hand sanitizers were also made available in all the areas where the employees congregate and even on top of the microwave ovens that they use to heat their food at lunch.

Tyson Learned of the first positive case on 04/01/2020. The company had 29 positive cases prior to the decision to go idle on April 5th 2020. A mass testing took place during the Tyson shutdown. There were 522 positive Covid-19 cases to the best of the company's knowledge, 12 of which Tyson was made aware by family members to have possibly caused hospitalizations, and 2 individuals passed away from either Covid-19 or other unknown underlying medical conditions. McElroy also stated that communication at the time between public health officials back to Tyson was not efficient and the information about the positive cases wasn't immediately available until days after.

With a large amount of people using the sick policy the company made a decision to go idle on 04/05/2020 and did not reopen again until 04/20/2020. During this time a mass testing of the employees was performed. Tyson added additional measures such as thermal imaging temperature thermometer to replace the temporal checks that had been being performed prior, clear barriers on the meat lines, plexi-glass guards on break tables, moved vending machines 6 feet apart in the cafeteria, added a tent to make extra space at breaks, and deep cleaned the facility and uses a chemical called Pure for added disinfecting surfaces, break rooms, locker rooms, and work areas. Disposable ICU face masks were made mandatory daily for everyone per the CDC recommendations that suggested mask as of 04/03/2020, and clear face shields were made mandatory for the meat production lines. Added sanitizers on microwaves in the cafeteria, with more being ordered as well as additional barriers for the lines coming. Tyson stated that they even purchased new automatic product labelers which took away the need to employees to stand next to one another and were trying to engineer out some of those areas where employees were in close proximity and new automatic sliding doors were also ordered to take place of areas where employees touch things.

On May 5th I also received additional photos from Doug White showing that additional barriers had been installed.

The additional steps have been implemented.

1. Installed a large tent to expand the cafeteria area, added tables, fire extinguishers, exit signs, etc for the employees to social distance.
2. Added partisans to every break table in the cafeteria area, at every desk where more than one person visits, and even the security entrance for the security guard.
3. Relocated vending machines and spaced them out.

4. Added automatic hand sanitizer stations throughout the entire facility and on top of all of the microwaves, in hallways, stairwells, etc.
5. Purchased an automatic label machine to keep employees from congregating instead of putting labels on by hand.
6. Installed clear plastic barriers at work stations on the line where it is hard to keep the employees apart.
7. Eliminated the attendance policy by giving no points for being absent.
8. Added enhanced sanitation and cleaning to locker rooms, break areas, etc,.
9. Infrared thermometer upon entrance to the facility and everyone who enters is monitored for a temperature instead of using the temporal thermometer that they were using to begin with.
10. Mandatory surgical ICU face-coverings are to be worn everywhere in the plant and disposed of daily. Clear plastic face shields are also mandatory within the production area where a large number of employees are.
11. Staggering breaks and lunches as best as possible with the number of employees that they have.
12. Promoting social distancing in the hallways, break rooms, with A framed floor signs and printouts on the walls.
13. Removed some fans that were directly blowing on the employees and circulating air.
14. Break tables are marked and spaced out as so no employees can sit next to one another. Break tables in the smoking area, partitioned off.
15. Sliding automatic doors are being added in areas that the employees enter and exit the facility instead of touching the surfaces with their hands.
16. Posting posters, signs throughout the facility in multiple areas, in multiple languages.
17. The management oversees, delegates authority to other managers, and enforces social distancing upon staff.
18. They have a Covid-19 response plan that outlines the steps to be taken to follow the CDC guidelines and managers as well as the employees are policing it.
19. Maintenance tries to schedule repairs when they can around break and lunch times to reduce being in close proximity to others.
20. Daily emails to employees who have email about the newest guidance and other information as well as daily postings on the boards.
21. Promoting personal hygiene, handwashing, sanitizing, etc.

A second closing conference was held on May 18, 2020 at 10:30 am with Doug White the Director of safety with Tyson.

Violations

No violations were noted as a result of this inspection,

NATURE AND SCOPE

Check Applicable Boxes and Explain Findings:

☐ Complaint Items

☒ Referral Items

☐ Accident Investigation Summary & Findings

☐ LEP

☐ Planned Inspection

☐ Follow-up Inspection

NATURE AND SCOPE – UNUSUAL CIRCUMSTANCES

☒ None

☐ Denial of entry

☐ Delays in conducting the inspection

☐ Strikes

☐ Jurisdictional Issues

☐ Trade Secrets

☐ Other

Comments:

RECORDKEEPING PROGRAMS
(Other than 29 CFR 1904 requirements)

Does the employer have a record keeping program relating to any occupational health issues (monitoring, medical, training, respirator fit tests, ventilation measurements, etc.)?

☒ Yes ☐ No

Are any programs required by OSHA health standards?

☒ Yes ☐ No

COMPLIANCE PROGRAMS
(engineering controls, PPE, regulated areas, emergency procedures, compliance plans, etc.)

Address any relevant compliance efforts regarding potential health hazards covered by the scope of inspection.

PERSONAL HYGIENE FACILITIES AND PRACTICES
(showers, lockers, change rooms, etc.)

Are any required by OSHA health standards?

☒ Yes ☐ No

What Standards:

HAZARD COMMUNICATION PROGRAM

Written Program (complete)

☒ Yes ☐ No

SDS's (all)

☒ Yes ☐ No

Labeling (adequate)

☒ Yes ☐ No

Training (complete)

☒ Yes ☐ No

Copy of SDS's/Program attached

☐ Yes ☒ No

Comments:

ACCESS TO EXPOSURE & MEDICAL RECORDS

☐ Yes ☐ No ☒ N/A

FIRE PROTECTION AND EVACUATION PROCEDURES/EMERGENCY ACTION PLAN

☐ Yes ☐ No ☒ N/A

EMERGENCY RESPONSE PLAN

☐ Yes ☐ No ☒ N/A

RESPIRATOR PROGRAM

☒ Yes ☐ No ☐ N/A

LOCKOUT TAGOUT / ELECTRICAL SAFE WORKPRACTICES

☐ Yes ☐ No ☒ N/A

FIRST AID

☐ Yes ☐ No ☒ N/A

ELECTRICAL SAFE WORKPRACTICES

☐ Yes ☐ No ☒ N/A

BBP EXPOSURE CONTROL PLAN

☐ Yes ☐ No ☒ N/A

LABORATORY STANDARD

☐ Yes ☐ No ☒ N/A

ERGONOMIC PROBLEMS

☐ Yes ☐ No ☒ N/A

If yes, complete items 1 and 2 below.

1. Lifting (10% or more similarly exposed employees injured)

    a. Total # of employees exposed to job:

    b. Total # of cases for job:

2. CTD's (10% or more similarly exposed employees have CTD's; 5% or more CTS cases)

    a. Total # of employees exposed to job:

    b. Total # of cases for job:

Other significant injury/illness trends

☐ Yes ☒ No

If yes, explain:

EVALUATION OF EMPLOYER'S OVERALL SAFETY AND HEALTH PROGRAM

☒ Yes ☐ No Employer has a Safety & Health Program

☒ Yes ☐ No Written

☒ Yes ☐ No Copy Attached

Evaluation of Safety and Health Program
(0=Nonexistent 1=Ineffective 2=Somewhat Effective 3=Completely Effective)

3 ☐ - Written S&H Program

2 ☐ - Communication to Employees

3 ☐ - Enforcement

3 ☐ - Safety Training Program

3 ☐ - Health Training Program

N/A ☐ - Accident Investigation Performed

3 ☐ - Preventive Action Taken

Comments: The employer has a thorough written safety and health program, and management has a large safety presence.

CLOSING CONFERENCE:

Were any unusual circumstances encountered such as, but not limited to, abatement problems, expected contest and/or negative employer attitude? If yes, explain below:

☐ Yes ☒ No

Closing Conference Checklist ("x" as appropriate)

☒ No Violations Observed

☒ Gave Copy Employer Rights

☒ Reviewed Hazards and Standards

☒ Discuss Employer Rights/Obligations

☒ Encouraged Informal Conference

☒ Offered Abatement Assistance

☒ Discussed Consultation Programs

☒ Employer/Employee Questionnaires

Occupational Safety and Health Administration

Referral Report

Reporting ID	UPA Number	Receipt Date	Receipt Time	Receipt Type
0751910	1574011	18-APR-2020	09:30 AM	Media
Electronic Complaint Number				

Establishment Name	Tyson Fresh Meats Inc.		Doing Business As (DBA)	
Related Inspections				
Industry & Ownership	Primary NAICS	311611 - Animal (except Poultry) Slaughtering	Ownership	Private Sector
Type Of Business	meat packing			

Site Information

Street Address 1:	16198 Highway 70 North				
Street Address 2:	P.O. Box 272				
County:	LOUISA				
City	COLUMBUS JUNCTION	State	IOWA	Zip	52738
Management Official:	Doug White	E-Mail:		doug.white@tyson.com	
Phone Number:	(712)-259-9184	Fax Number:		4797576104	

Business Address

Street Address 1:	16198 Highway 70 North				
Street Address 2:	P.O. Box 272				
County:	LOUISA				
City	COLUMBUS JUNCTION	State	IOWA	Zip	52738
Country	UNITED STATES OF AMERICA				

Mailing Address

Street Address 1:	16198 Highway 70 North				
Street Address 2:	P.O. Box 272				
County:	LOUISA				
City	COLUMBUS JUNCTION	State	IOWA	Zip	52738
Country	UNITED STATES OF AMERICA				

HAZARD DESCRIPTION/LOCATION. Describe briefly the hazard(s) which you believe exist. Include the approximate number of employees exposed to or threatened by each hazard. Specify the particular building or worksite where the alleged violation exists.
Media has reported two fatalities due to COVID-19 at the Columbus Junction plant.

Source 1			
Referred by:		Media	
Source Name		*Telephone*	
Source Address		UNITED STATES OF AMERICA	
Source E-mail Address			
Send Referral Results?	No	*If no results sent, why?*	

Referral Actions					
Action Date	Action Type	Date Response Due	Communication Method	Type of Letter/Reason	Other – Status
04/20/2020	Valid = Y				
04/20/2020	Do Inspection = N			Enhanced RRI - COVID 19 possible work related deaths.	
04/20/2020	Contact with Employer	04/27/2020	Phone Discussion	Initiate Inquiry by Phone/Email to be followed by Letter	

04/20/2020	Contact with Employer	04/27/2020	Email Letter	Initiate Inquiry by Phone/Email to be followed by Letter	
04/28/2020	Do Inspection = Y			Inadequate/No ER Response to Injury - Includes Employee Dispute	

Referral Responses				
Date Response Received	Type Response Received	Evaluation	Evaluated By	Other

RRI Investigation Information

# Hospitalizations	# of Amputations	# of Eye Injuries	Event Date	Event Time
2	0	0	16-APR-2020	08:00 AM

Has this happened before?		Is the hazard still present?	YES	Date employer's response sufficient to close investigation	

Victim 1	
Injured Name:	not yet reported
Address	UNITED STATES OF AMERICA
Phone Number	
Gender	
Age	
Victim Injury	COVID 19 - coronavirus

Victim 2	
Injured Name:	not yet reported
Address	UNITED STATES OF AMERICA
Phone Number	
Gender	
Age	

Victim Injury	COVID-19 coronavirus

What was employee doing just before incident occurred?	Plant was temporarily closed on April 6th after 86 employees tested positive with the Coronavirus. Two employees were reported to have died by the media.
What happened?	Coronavirus pandemic. Essential employer stayed in operation. 86 employees tested positive and two have died.
What was the injury or illness?	Positive COVID-19 test - respiratory virus.
What was the object or substance that directly harmed the employee?	COVID-19 two deaths reported by media

RRI Corrective Actions	
Corrective Action Keywords	
Additional Relevant Information	
Inadequate Employer Response Description	

Strategic Initiatives	
National Emphasis	
Local/State Emphasis	

Additional Codes			
Type	ID	Value	Description
N	16	COVID-19	Response activities related to the COVID-19 Coronavirus

EXHIBIT 3

Kim Reynolds, Governor
Adam Gregg, Lt. Governor
Rod A. Roberts, Labor Commissioner

IOWA WORKFORCE DEVELOPMENT

DATE: April 3, 2020
TO: Bradley Comstock
CO.NAME: Swift Pork Company
FROM: Peggy Peterson, Senior Industrial Hygienist

RE: 1565152

Response due: April 10, 2020

Our office has received a complaint concerning possible safety and/or health hazards at your worksite. We have notified you or your office of these alleged hazards by phone. **The specific nature of the hazard(s) is attached.**

We have not determined whether the hazards, as alleged, exist at your workplace; and we are not conducting an inspection at this time. However, since allegations of violations have been made, you should investigate the alleged condition(s) and make any necessary corrections or modifications. Within **5 working days** of the receipt of this letter, please advise in writing of your findings and of the action you have taken. Your response should be detailed, stating specifically what action you have taken to correct the hazards. You should enclose any supporting documentation on the action you have taken, such as monitoring results, new equipment, orders and the like, as well as photograph(s) of the corrected conditions.

Section 88.9 of the Iowa Occupational Safety and Health Act provides that "No person shall discharge or in any manner discriminate against any employee because such employee has filed any complaint...or because of any right afforded by this Act."

This letter is not a citation or a notification of proposed penalty which, according to the IOSH Act, may be issued only after an inspection or investigation of the workplace. If we do not receive a response from you within **5 working days** indicating that appropriate action has been taken or that no hazards exist and why, an inspection may be conducted.

Action taken by you in this matter will not automatically remove your workplace from the possibility of an unannounced inspection by duly authorized representatives of Iowa OSHA in accordance with routine scheduling procedures currently in effect.

You are requested to post a copy of this letter and your response to it where it will be readily accessible for review by all of your employees. If you have any questions concerning this matter, please contact me at **515-725-5660.** Your personal support and interest in the safety and health of your employees is appreciated.

Send all replies to: **Iowa OSHA Complaints, Division of Labor**
150 Des Moines Street
Des Moines, IA 50309-1836
Fax #: 515-725-2024
peggy.peterson@iwd.iowa.gov

Additional info: **www.osha.gov 1910 – general industry 1926 – construction industry**

Iowa OSHA Consultation and Education 515-281-7629

Notice of Alleged Safety or Health Hazards

		Complaint Number	1565152

Establishment Name	Swift Pork Company			
Site Address	402 North 10th Avenue, Marshalltown, IA 50158			
	Site Phone	641-752-7131	Site FAX	641-752-8497
Mailing Address	PO Box 280 Marshalltown, IA 50158			
	Mail Phone	641-752-7131	Mail FAX	641-752-8497
Management Official	Bradley Comstock		Telephone	641-752-7131
Type of Business	Meat Industry			
Primary SIC		Primary NAICS	311611 - Animal (except Poultry) Slaughtering	

HAZARD DESCRIPTION/LOCATION. Describe briefly the hazard(s) which you believe exist. Include the approximate number of employees exposed to or threatened by each hazard. Specify the particular building or worksite where the alleged violation exists.

April 3, 2020

Health:

1. Employees are exposed to COVID-19 due to the high density of employees that work in close proximity. This includes cutting rooms, processing rooms, break rooms, dressing rooms. Employees are still working shoulder to shoulder.

2. Employees are limited on their personal protective equipment.

3. Employees are required to work with signs and symptoms of COVID-19.

iowa.gov

see 31969932 Covid 19

Peterson, Peggy <peggy.peterson@iwd.iowa.gov>

Re: 31976862 EMPLOYEE COMPLAINT

1 message

Peterson, Peggy <peggy.peterson@iwd.iowa.gov> Wed, Apr 1, 2020 at 3:33 PM
To: jhenry@lulac.org

Joe Enriquez Henry,
Iowa OSHA will contact JBS and provide the OSHA guidelines.
Peggy Sue Peterson
Senior Industrial Hygienist
Mail address: 150 Des Moines St
Des Moines, IA 50309
Telephone: (515) 725-5660
Email: peggy.peterson@iwd.iowa.gov

On Wed, Apr 1, 2020 at 12:40 PM Complaint via IWD-OSHAComplaints <OSHAComplaints@iwd.iowa.gov> wrote:

Please contact Joe Enriquez Henry, League of United Latin American Citizens via
Phone: 5152087312

Mailing Address

2463 E Highview Drive
Des Moines
Iowa
50320

Email: jhenry@lulac.org

within 5 working days of 01-APR-20.

Below is the complaint information
==========

IOWA

Des Moines Area Office
210 Walnut Street, Room 815
Des Moines, Iowa 50309
(515) 284-4794
(515) 284-4058 FAX

Establishment Name:	JBS USA, LLC
Site Street:	402 N 10th Avenue
Site City:	Marshalltown
Site State:	Iowa
Site Zip:	50158
Mailing Address:	same
Management Official:	Cameron Bruett
Telephone Number:	(641) 752-7131

Type of Business: meat processing

Hazard Description:

Due to the COVID 19 pandemic, we are asking OSHA to provide clear and uniform guidelines to the JBS facility in Marshalltown and elsewhere, especially as noted in your guidelines -- https://www.osha.gov/Publications/OSHA3990.pdf ? including but not limited to appropriate safety equipment, "social distancing," paid sick days and regular health checks.

Unsafe working conditions exist at the JBS meat processing plant due to the high density of employees that work in each of the departments (cutting rooms, processing rooms, break rooms, dressing rooms). Based on your OSHA publication (#3990-03 2020) the current work practices would be in violation of your new guidelines.

This facility employees approximately 2,700 employees who work shoulder to shoulder in most of the meat cutting and processing department rooms at the facility.

Hazard Location:

At the JBS plant located at 402 N 10th Avenue, Marshalltown and all other plants in Iowa.

This condition has previously been brought to the attention of:
* The employer

I am Other: League of United Latin American Citizens

My name may be revealed to the employer.

Complainant Name: Joe Enriquez Henry, League of United Latin American Citizens [SIGNED]
(Complainant checked the electronic signature checkbox to indicate this submission shall be considered as having an authorized written signature.)

Complainant Telephone Number: 5152087312

Complainant Mailing Address

2463 E Highview Drive
Des Moines
Iowa
50320

Complainant Email: jhenry@lulac.org

EXHIBIT 4

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1563152

Peterson, Peggy <peggy.peterson@iwd.iowa.gov>

P/F COVID-19
add to JBS
manshed

Re: 31984202 EMPLOYEE COMPLAINT

1 message

Peterson, Peggy <peggy.peterson@iwd.iowa.gov> Mon, Apr 6, 2020 at 7:56 AM
To: [redacted]

CONFIDENTIAL

At this time Iowa OSHA has provided links to your employers to help them stay informed on workplace safety and health during COVID-19 pandemic.
https://www.iowaosha.gov
OSHA website
Guidance COVID-19
CDC COVID-19

The situation related to COVID-19 is changing rapidly, and Iowans should closely monitor messages from Governor Reynolds, the Iowa Dept of Public Health and CDC for updated guidance.

You may find these additional links helpful:

Iowa Department of Public Health link
World Health Organization website

Please note OSHA does not see COVID-19 as a common cold or flu, therefore the employer is required to record cases on the OSHA 300 log or report any hospitalization/fatalities of COVID-19.

Peggy Sue Peterson
Senior Industrial Hygienist
Mail address: 150 Des Moines St
Des Moines, IA 50309
Telephone: (515) 725-5660
Email: peggy.peterson@iwd.iowa.gov

JAN 4 2020

On Sat, Apr 4, 2020 at 6:18 AM Complaint via IWD-OSHAComplaints <OSHAComplaints@iwd.iowa.gov> wrote:

Please contact [redacted]
Phone: [redacted]

Mailing Address

[redacted]

Email: [redacted]

within 5 working days of 04-APR-20.

Below is the complaint information

==========

IOWA

Des Moines Area Office
210 Walnut Street, Room 815

Des Moines, Iowa 50309
(515) 284-4794
(515) 284-4058 FAX

Establishment Name: JBS AMERICA
Site Street: 402 N 10th AVENUE
Site City: Marshalltown
Site State: Iowa
Site Zip: 50158
Telephone Number: 6417527131
Type of Business: Pork packing plant

Hazard Description:

The risk of over 2,600 employees catching and or transferring the coronavirus do to no safety precautions no mask employees are all cramped in all work stations as well as floor employees handling the product is a risk in its self for the nation's food not knowing who all is infected let alone not even know your infected by the disease due to the disease being undetectable with no symptoms till after 2 weeks of exposure so thers no telling who has it and doesn't even no it and to how many employees have already been infected unti its to late shouldn't proper precautions be in place as a critical employees maybe madatory coronavirus testing for all employees before they enter facility, hazard pay or pretty much anything that would make the employees safe as possible with a sense of reinsurance that the employer cares enough about there employees to ensure every precaution necessary to ensure and be held accountable for the safety and well being of there employees, there working environment, there product, and the all around community .

Hazard Location:

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more at risk employees would be spread out through the -kill floor, ham line, cut floor, rendering, the barn, dehair, the hot side cafeteria, the cold side cafeteria, hot side and cold side locker rooms, the general mechanics that go to various departments and floors to fix or perform maintenance on equipment and or interact with all other employees

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This condition has previously been brought to the attention of:
* NO ONE

CONFIDENTIAL

I am a current employee.

Do NOT reveal my name to my employer.

Complainant Name: [redacted] [SIGNED]
(Complainant checked the electronic signature checkbox to indicate this submission shall be considered as having an authorized written signature.)

Complainant Telephone Number: [redacted]

Complainant Mailing Address

[redacted]

Complainant Email: [redacted]

EXHIBIT 5

Peterson, Peggy <peggy.peterson@iwd.iowa.gov>

Re: iowa osha complaint

1 message

Peterson, Peggy <peggy.peterson@iwd.iowa.gov> Tue, Apr 7, 2020 at 2:45 PM
To: Lorraine Gaynor <lgaynor@iowalaw.org>

Lorraine,
I have a complaint in process with Agri-Star in Postville. If you have additional concerns please provide them...we are getting a ton of calls and that is limiting our lines going out. I won't be able to schedule a call or guarantee my availability when you call. I think an email with concerns would be best. I made contact with Diane Guerrero, HR Director, on Friday. This is a big Holy Week for the Jewish community and the facility will be closed for several days. When the response is received it will be public record and you can request a copy.

Peggy Sue Peterson
Senior Industrial Hygienist
Mail address: 150 Des Moines St
Des Moines, IA 50309
Telephone: (515) 725-5660
Email: peggy.peterson@iwd.iowa.gov

On Tue, Apr 7, 2020 at 1:06 PM Lorraine Gaynor <lgaynor@iowalaw.org> wrote:

> Hi Peggy,
>
> Hope you are doing alright during these uncertain, scary times. Briana Reha-Klenske from Proteus Migrant Health and I just left you a voice mail, but we wanted to follow up by email as well. We wanted to make a complaint about the agricultural employer Agri Star in Postville, Iowa. Two separate individuals who work at the Agri Star plant in Postville reached out to a community agency in NE Iowa and told the agency they were concerned because: 1) managers at Agri Star are telling workers that COVID-19 is a lie that is made up by the government and people who are not coming to work for reasons related to the virus are just using that as an excuse to get out of work; 2) managers have said they expect workers to still come to work even if they have coughs or other symptoms of COVID-19; and 3) there have not been any precautionary steps taken related to working conditions such as additional PPE or social distancing within the workplace to keep workers safe.
>
> Please call 319-331-4048 (my direct line) anytime today to discuss further.
>
> Thanks,
>
> Lorraine
>
> Lorraine Gaynor
>
> Attorney/Abogada
>
> Farmworker Rights Project/Proyecto de Derechos de Trabajadores Agrícolas
>
> Iowa Legal Aid/Asistencia Legal Iowa
> 1700 S. 1st Avenue, Suite 10

Iowa City, IA 52240
Tel: (319) 331-4048 - phone
Fax: (319) 351-0079 - fax

Outreach cell/WhatsApp: 515-443-2755

NOTICE: Email sent between you and Iowa Legal Aid goes over the Internet. Iowa Legal Aid cannot assure that email is secure. You should be careful when emailing confidential information. You may decide not to use email when communicating with Iowa Legal Aid. This email and any attachments may contain confidential or legally privileged information. The sender does not intend to waive any privilege, including the attorney-client privilege. If you are not the intended recipient(s), you are not authorized to read, print, retain, copy, forward or disseminate this communication. If you received this communication in error, please email the sender immediately and delete this communication and all copies.

EXHIBIT 6

FINAL

Activity Number: 1567798 | Establishment/DBA Name: Agri Star Meat and Poultry LLC | RID: 0751910

Establishment Information

Establishment Information

Establishment Name: Agri Star Meat and Poultry LLC
Establishment DBA:
Establishment ID: 1026569448
Ownership: Private Sector
Primary NAICS: 311612 - Meat Processed from Carcasses
Type of Business: Corporation

Injury Illness

Business Address

Street Address 1: 220 N West Street
Street Address 2:
Country: UNITED STATES OF AMERICA
State: IOWA
City: POSTVILLE
County: ALLAMAKEE
Zip Code: 52162
E-mail Address: dguerrero@agristarmeatandpoultry.com
Phone Number: 5638647811
Fax:

Mailing Address

Street Address 1: 220 N West Street
Street Address 2: PO Box 920
Country: UNITED STATES OF AMERICA
State: IOWA
City: POSTVILLE
County: ALLAMAKEE
Zip Code: 52162

Site Address

Street Address 1: 220 N West Street
Street Address 2:
City: POSTVILLE
State: IOWA
County: ALLAMAKEE
Zip Code: 52162
Phone Number: 563-864-7811
Phone Number Extn:
Fax:
Number of Employees: 2000

Management/Business Type

Management Official First Name: Diane
Last Name: Guerrero
Type of Business: Meat Processing
Primary NAICS: 311612 - Meat Processed from Carcasses
Official Phone: 563-864-7811
Type of Site Activity: Meat Processing
Official Phone Extension:

Receipt Information

Receipt Information

Received By :
Receipt Date : 04/03/2020
Receipt Type : Phone
Receipt Time: 11:00 AM
Activity Type : Complaint
Formality: Nonformal

Complaint / Referral - Subject / Severity

Discrimination: No

Safety

Imminent Danger: No | Serious: No | Other: No

Health

Imminent Danger: No | Serious: Yes | Other: No

EXHIBIT 7

Kim Reynolds, Governor
Adam Gregg, Lt. Governor
Rod A. Roberts, Labor Commissioner

IOWA WORKFORCE DEVELOPMENT

DATE: April 8, 2020
TO: Diane Guerrero
CO.NAME: Agri Star Meat and Poultry LLC
FROM: Peggy Peterson, Senior Industrial Hygienist

RE: 1567798 **Response due: April 15, 2020**

Our office has received a complaint concerning possible safety and/or health hazards at your worksite. We have notified you or your office of these alleged hazards by phone. **The specific nature of the hazard(s) is attached.**

We have not determined whether the hazards, as alleged, exist at your workplace; and we are not conducting an inspection at this time. However, since allegations of violations have been made, you should investigate the alleged condition(s) and make any necessary corrections or modifications. Within **5 working days** of the receipt of this letter, please advise in writing of your findings and of the action you have taken. Your response should be detailed, stating specifically what action you have taken to correct the hazards. You should enclose any supporting documentation on the action you have taken, such as monitoring results, new equipment, orders and the like, as well as photograph(s) of the corrected conditions.

Section 88.9 of the Iowa Occupational Safety and Health Act provides that "No person shall discharge or in any manner discriminate against any employee because such employee has filed any complaint…or because of any right afforded by this Act."

This letter is not a citation or a notification of proposed penalty which, according to the IOSH Act, may be issued only after an inspection or investigation of the workplace. If we do not receive a response from you within **5 working days** indicating that appropriate action has been taken or that no hazards exist and why, an inspection may be conducted.

Action taken by you in this matter will not automatically remove your workplace from the possibility of an unannounced inspection by duly authorized representatives of Iowa OSHA in accordance with routine scheduling procedures currently in effect.

You are requested to post a copy of this letter and your response to it where it will be readily accessible for review by all of your employees. If you have any questions concerning this matter, please contact me at **515-725-5660.** Your personal support and interest in the safety and health of your employees is appreciated.

Send all replies to: **Iowa OSHA Complaints, Division of Labor**
150 Des Moines Street
Des Moines, IA 50309-1836
Fax #: 515-725-2024
peggy.peterson@iwd.iowa.gov

Additional info: **www.osha.gov 1910 – general industry 1926 – construction industry**

Iowa OSHA Consultation and Education 515-281-7629

EXHIBIT 8

Notice of Alleged Safety or Health Hazards

Complaint Number	1570949

Establishment Name	Tyson Fresh Meats, Inc.			
Site Address	13500 I Court, Perry, IA 50220			
	Site Phone	515-465-9728	Site FAX	
Mailing Address	PO Box 7 Perry, IA 50220			
	Mail Phone	515-465-9728	Mail FAX	
Management Official	Doug White		Telephone	515-465-9728
Type of Business	Pork Producers			
Primary SIC		Primary NAICS	311612 - Meat Processed from Carcasses	

HAZARD DESCRIPTION/LOCATION. Describe briefly the hazard(s) which you believe exist. Include the approximate number of employees exposed to or threatened by each hazard. Specify the particular building or worksite where the alleged violation exists.

April 14, 2020

Health:

1. Employees are exposed to COVID-19 as 1300 employees are elbow to elbow. The employer is not following social distancing guidelines. This includes production floor in all areas and cafeteria.

EXHIBIT 9

Kim Reynolds, Governor
Adam Gregg, Lt. Governor
Rod A. Roberts, Labor Commissioner

DATE: April 20, 2020
TO: Doug White
CO.NAME: Tyson Fresh Meats, Inc.
FROM: Peggy Peterson, Senior Industrial Hygienist

RE: 1570949 **Response due: April 27, 2020**

Our office has received a complaint concerning possible safety and/or health hazards at your worksite. We have notified you or your office of these alleged hazards by phone. **The specific nature of the hazard(s) is attached.**

We have not determined whether the hazards, as alleged, exist at your workplace; and we are not conducting an inspection at this time. However, since allegations of violations have been made, you should investigate the alleged condition(s) and make any necessary corrections or modifications. Within **5 working days** of the receipt of this letter, please advise in writing of your findings and of the action you have taken. Your response should be detailed, stating specifically what action you have taken to correct the hazards. You should enclose any supporting documentation on the action you have taken, such as monitoring results, new equipment, orders and the like, as well as photograph(s) of the corrected conditions.

Section 88.9 of the Iowa Occupational Safety and Health Act provides that "No person shall discharge or in any manner discriminate against any employee because such employee has filed any complaint...or because of any right afforded by this Act."

This letter is not a citation or a notification of proposed penalty which, according to the IOSH Act, may be issued only after an inspection or investigation of the workplace. If we do not receive a response from you within **5 working days** indicating that appropriate action has been taken or that no hazards exist and why, an inspection may be conducted.

Action taken by you in this matter will not automatically remove your workplace from the possibility of an unannounced inspection by duly authorized representatives of Iowa OSHA in accordance with routine scheduling procedures currently in effect.

You are requested to post a copy of this letter and your response to it where it will be readily accessible for review by all of your employees. If you have any questions concerning this matter, please contact me at **515-725-5660.** Your personal support and interest in the safety and health of your employees is appreciated.

Send all replies to: **Iowa OSHA Complaints, Division of Labor**
150 Des Moines Street
Des Moines, IA 50309-1836
Fax #: 515-725-2024
Russell.sawvel@iwd.iowa.gov

Additional info: **www.osha.gov 1910 – general industry 1926 – construction industry**

Iowa OSHA Consultation and Education 515-281-7629

EXHIBIT 10

REPORT ON IOWA OSHA'S RESPONSE TO III FFC COMPLAINTS

Overview

This report provides information that reviews the laws, rules and regulations governing Iowa OSHA and the agency's implementation with respect to employee health & safety complaints from construction analysts with the Indiana, Illinois, Iowa Foundation for Fair Contracting.

Table of Contents **Page**

National Emphasis Program for Trenching & Excavation…….3

Inspection Scheduling for Construction…….9

National Emphasis Program on Respirable Crystalline Silica…….10

Iowa OSHA Field Operations Manual…….14

National Emphasis Program on Trenching and Excavation

Directive number CPL-02-00-161 (effective date 10/1/2018) from the U.S. Department of Labor Occupational Safety and Health Administration (US OSHA) describes policies and procedures for continued implementation of a *National Emphasis Program (NEP) on Trenching and Excavation* to identify and to reduce hazards which are causing or likely to cause serious injuries and fatalities during trenching and excavation operations.

The Executive Summary to this OSHA Instruction states: "In 1985, OSHA implemented CPL-02-00-069 - Special Emphasis: Trenching and Excavation, in response to the continuing incidence of trench/excavation collapses and accompanying loss of life. In light of the recent resurgent number of trenching/excavation fatalities and serious injuries, the agency has determined that these worksites continue to warrant an increased enforcement presence."

State Plan Adoption

Per section VII of the instruction:

A. … States with OSHA-approved State Plans [like the State of Iowa] are *expected to have enforcement policies and procedures in place for their trenching and excavation inspections which are at least as effective as those in this instruction*.

B. OSHA-approved State Plans are required to notify OSHA within 60 days whether they intend to adopt policies and procedures identical to those in this instruction or adopt or maintain different policies and procedures.

C. If a State Plan adopts or maintains policies and procedures that differ from federal policies and procedures, the State Plan must identify the differences and may either post its policy on its website and provide the link to OSHA or submit an electronic copy to OSHA with information on how the public may obtain a copy. If the State Plan adopts policies and procedures that are identical to federal policies and procedures, the State Plan must provide the date of adoption to OSHA. State Plan adoption must be accomplished within 6 months, with posting or submission of documentation within 60 days of adoption. OSHA will provide summary information on the State Plan responses to this instruction on its website at: www.osha.gov/dcsp/osp/index.html" (emphasis added).

Please note, State Plan Adoption of Federal OSHA Standards and Directives, as published on US OSHA's website (link provided above) has discontinued since 2017. Since CPL-02-00-161 was released in 2018, US OSHA's webpage on State Plan Adoption of this US OSHA Directive is not published."

Per Senior Industrial Hygienist Russel Sawvel with Iowa OSHA (IA OSHA), via an email sent to Construction Analyst Dylan Parker with the Indiana, Illinois, Iowa Foundation for Fair Contracting (III FFC) dated June 9, 2020, "Emphasis programs are available on the Division of Labor website at https://www.iowaosha.gov/iowa-osha-guidance." However, a review of all emphasis programs listed on the provided website does not include any such emphasis program for trenching and excavation.

Procedures

Per section IX of the instruction: "Compliance Safety and Health Officers (CSHOs) shall initiate inspections under this NEP whenever they observe an open trench or an open excavation, regardless of whether or not a violation is readily observed. These observations may occur during the course of their normal work-day travel or while engaged in programmed or un-programmed inspections. Trenching and excavation operations will also be assigned for inspection as the result of incidents, *referrals*, and complaints…Any unprotected trench or excavation that is brought to the attention of the Area Office shall be evaluated, and, if appropriate, inspected (i.e., referrals from city inspectors, DOT and *other third parties*).

Examples from the Field

The following complaints were made by III FFC staff to Iowa OSHA pertaining to the National Emphasis Program on Trenching and Excavation:

June 26, 2017

After observing employees of KE Flatwork performing work in the City of Muscatine, IA, III FFC employee Brooke Thye filed an OSHA complaint alleging the employer had violated OSHA Standard 1926.651(j)(2), employees not protected from material falling/rolling into excavation.

Per the IA OSHA investigative file for the complaint received via an Open Records request, a "phone & fax" was performed by IA OSHA Senior Industrial Hygienist Peggy Peterson. A "phone & fax" (also known as an "inquiry" per the Iowa OSHA Field Operations Manual) is where the contractor is required to provide a written response to the allegations within 5 days. Per Occupational Safety and

Health Information System (OIS) documents included in the Open Records request response, the complaint was marked as a "Serious" safety category, but not "Imminent Danger." Additionally, no inspection was performed because the "no employees exposed to hazard jobsite appears to be closed for the evening." The III FFC is not aware of an exception in the NEP that allows IA OSHA not to investigate a complaint because a jobsite is closed for the evening. Additionally, after the employer's initial response to the phone & fax on July 14, 2017, Ms. Thye filed a second OSHA complaint a few days later, July 19, 2017, because the hazard had not been abated. In response to the second complaint, Senior Industrial Hygienist Peggy Peterson informed Ms. Thye on September 7, 2017 that "the employer received the additional information and photo on or about July 27, 2017. The employer used the photo as part of a training with on-site contractors. The trench measuring 12 feet deep and 35 feet in length required a trench box for employee protection. The soil pile was removed from site and back-fill or aggregate was placed in the trench as required. The additional information was received by the employer on or about July 31, 2017. [The] complaint has been closed as of July 31, 2017." However, it did not appear that IA OSHA performed any second investigation nor were citations issued after the follow-up complaint was filed.

November 20, 2018

After observing employees of Legacy Corporation of IL performing work in the City of Clinton, IA, III FFC employee Dylan Parker filed an OSHA complaint alleging the employer had violated OSHA Standard 1926.652(a)(1), employees not protected from cave-ins.

Per the IA OSHA investigative file for the complaint received via an Open Records request, a "phone & fax" was performed by IA OSHA Senior Industrial Hygienist Peggy Peterson. Per OIS documents included in the Open Records request response, the complaint was marked as a "Serious" safety category, but not "Imminent Danger." Additionally, no inspection was performed because the

“city was informed went to site and did not believe the employer was as deep as the photo appeared.” The III FFC is not aware of an exception in the NEP that allows IA OSHA to delegate their inspection responsibilities to a local government.

April 2, 2020

After observing employees of Legacy Corporation of IL performing work in the City of Davenport, IA, III FFC employee Dylan Parker filed an OSHA complaint alleging the employer had violated OSHA Standard 1926.652(a)(1), employees not protected from cave-ins; 1926.651(b)(4), exposed utilities not supported/protected; 1926.651(c)(2), unsafe access/egress; 1926.651(c)(2), employees outside of 25’ egress; 1926.651(j)(2), spoil piles not 2’ from excavation; and 1926.651(k)(2), reasonably predictable hazards not controlled. Additionally, it was asked of IA OSHA to verify that the contractor had received approval from a registered professional engineer for the trench protection system, as required by a 2003 Standard 1926.652 Interpretation letter issued by US OSHA.

Per the IA OSHA investigative file for the complaint received via an Open Records request, a “phone & fax” was performed by IA OSHA Senior Industrial Hygienist Russell Sawvel. Per the Occupational Safety and Health Information System (OIS) document included in the Open Records request response, the complaint was marked as a “Serious” safety category, but not “Imminent Danger.” Additionally, no inspection was performed, but no reason for not performing the inspection was documented. Included in the Open Records request response was an email dialogue between Senior Industrial Hygienist Peggy Peterson & Gary Beer (title/position unknown) on April 2, 2020, wherein Peggy is quoted asking Gary “if you think this is worthy to send someone I can under trenching, but I did not see the same concerns Mr. Parker with Iowa, Illinois, Indiana Foundation for Fair Contracting stated.” Gary responds with “I don’t either. I would do a p/f [phone & fax].” Peggy followed up with Gary, “What concerns would you have – fall hazard?” And Gary replies, “Ya if anything (into the box) and perhaps the 20’ depth engineer design.” However, the Notice of Alleged Safety or Health Hazards

provided to the contractor includes no inquiry as to whether a registered professional engineer approved the trench protection system. Also, it is curious that IA OSHA's own employees would add a fall hazard into the trench box to the complaint provided to them, when US OSHA provided a Standard 1926.501 Interpretation letter back in 2002 (revised 12/5/2012) that explicitly states "unless the trench you are describing is obscured from view, there is no requirement for fall protection to be provided."

June 23, 2020

After observing employees of BWC performing work in the City of Davenport, IA, III FFC employee Dylan Parker filed an OSHA complaint alleging the employer had violated OSHA Standard 1926.652(a)(1), employee protection from cave-ins; 1926.651(g)(1), atmospheric testing not present near exposed gas pipe; 1926.651(c)(2), employees outside of 25' egress; and 1926.651(k)(2), reasonably predictable hazards not controlled.

The investigative file for this complaint has yet to be requested, due to the fact that the inquiry is ongoing. However, on July 13, 2020, a few weeks after the complaint had been filed, BWC employees were observed working in similar working conditions that had prompted the OSHA complaint on the 23rd of June.

Senior Industrial Hygienist Russel Sawvel was contacted via phone by III FFC employee Dylan Parker immediately after capturing this photograph to express frustration that employer had not corrected the hazard. As of July 27, 2020, the inquiry is still open so documents may not yet be requested.

Different State, Different Protection

As mentioned, the State of Iowa operates its own State OSHA Plan. However, right across the Mississippi River in the State of Illinois, where the OSHA program is operated by the Federal Government, similar OSHA complaints receive entirely different responses. The following example is provided to demonstrate the difference in ensuring workers' health & safety.

September 20, 2019

After observing employees of Legacy Corporation of IL performing work in the City of Moline, IL, III FFC employee Andrew Waeyaert filed an OSHA complaint alleging that employees working in a trench box were exposed to crushing injuries because the trench box was not secured from movement in the

soil. It should be noted that an acknowledgment was received from OSHA on September 24, 2019 that the complaint had been received and that "an inspection of the workplace will be scheduled as soon as possible, in accordance with the priorities established by the agency. Due to our limited resources, there may be a delay. You will be contacted following the investigation. Your patience is appreciated. You will be informed of the results of our inspection when they are available." The III FFC has never received an acknowledgement letter from IA OSHA confirming receipt of a complaint. Additionally, to be informed of the results of a complaint, the III FFC is required to submit a formal Open Records Request, including paying copying and inspection fees in accordance with Iowa Code Chapter 22 (highest amount to date was $55).

On February 10, 2020, Mr. Waeyaert received notification from the Peoria, IL Office of OSHA that Legacy Corporation had been issued two citations for serious health and safety violations. Interestingly, per the letter received from OSHA, "at the time of the inspection, the excavation described in the complaint had been filled, *although employees working in a nearby open excavation were exposed to cave in hazards. Citations issued* [emphasis added]." In accordance with the NEP on Trenching & Excavations, US OSHA performed a workplace inspection, after receiving a complaint related to trenching, and was able to identify and cite hazards even though the excavation in the original complaint had been filled. This is in stark contrast to the IA OSHA examples provided above wherein no worksite inspection is performed. The distance between Moline, IL & Davenport, IA is less than 5 miles. However, the effectiveness in enforcing worker health & safety standards between the two OSHA authorities are worlds' apart.

Inspection Scheduling for Construction

Directive number CPL-02-00-155 (effective date 9/6/2013) from US OSHA describes OSHA's programmed Inspection Scheduling for Construction.

This instruction states: "Due to the mobility of the construction industry, the transitory nature of construction worksites, and the fact that construction worksites frequently involve more than one construction employer, inspections are scheduled from a list of construction worksites rather than construction employers. The National Office will provide to each Area/District Office a randomly selected list of construction projects from all identified or known covered active projects. This list will contain the projected number of sites the office plans on inspecting during the next month."

State Plan Adoption

On the Iowa Workforce Development website listing Iowa OSHA Guidance (https://www.iowaosha.gov/iowa-osha-guidance, as directed by IA OSHA Senior Industrial Hygienist Russel Sawvel), CPL-02-00-155 is listed as "adopted in its entirety with the exception of paragraph VI.B.1," which reads: "Deferrals. States may, but are not required to, defer an inspection, or assign lower priority, for up to 90 days, to construction sites for which the employer has requested a full-service comprehensive consultation visit and that visit has been scheduled. See paragraph X.F.6 of this Instruction."

Research

To date, the III FFC has done limited research to verify IA OSHA's compliance with this directive. On June 25, 2020, Construction Analyst Dylan Parker with the III FFC sent an email to Iowa Workforce Development (IWD) employee Gary Beer (title or position unknown) requesting "the most recent list of construction sites to be investigated per OSHA's Construction Inspection Targeting System for the construction industry (IA OSHA's Current Directive Number CPL 02-00-155)." As of July 29, 2020, no response has been received.

National Emphasis Program on Respirable Crystalline Silica

Directive number CPL-03-00-023 (effective date 2/4/2020) describes policies and procedures for implementing a National Emphasis Program (NEP) – Respirable Crystalline Silica to identify and reduce or eliminate worker exposures to respirable crystalline silica (RCS) in general industry, maritime, and construction. The NEP targets specific industries expected to have the highest exposures to RCS.

Section IX of this OSHA Instruction states:

Crystalline silica is a common mineral found in many naturally occurring materials and used in many industrial products and at construction sites. Materials including sand, concrete, stone, and mortar contain crystalline silica. RCS consists of very small silica particles, typically at least 100 times smaller than ordinary sand found on beaches or playgrounds. RCS is generated by high energy operations like cutting, sawing, grinding, drilling, and crushing stone, rock, concrete, brick, block, and mortar, and when abrasive blasting with sand. Exposure to RCS can also occur during manufacture of products such as glass, pottery, ceramics, bricks, concrete, countertops, and artificial stone. In particular, silica exposure during the fabrication of artificial stone countertops is an emerging hazard that has been associated with several recent outbreaks of severe accelerated silicosis in young workers in the U.S. Additionally, fine industrial sand used in industry can also be a source of RCS exposure, such as in certain foundry operations and, increasingly in recent years, during hydraulic fracturing (fracking). Inhalation of elevated levels of RCS particles poses a health hazard and can cause multiple diseases, including silicosis, an incurable lung disease that can lead to disability and death. Exposure to RCS can also cause lung cancer, chronic obstructive pulmonary disease (COPD), and kidney disease. Simply being near sand or other silica-containing materials is not hazardous. The hazard is created when specific activities generate respirable dust that is released into the air. See 81 FR at 16386-87, Table VI-1.

State Plan Adoption

Per https://www.iowaosha.gov/iowa-osha-guidance, as directed by IA OSHA Senior Industrial Hygienist Russel Sawvel, CPL-03-00-007 is listed. However, CPL-03-00-007 is an archived US OSHA Directive, which was cancelled by CPL-03-00-023.

Per section VI:

This Instruction describes a federal program change that establishes an NEP to identify and reduce or eliminate overexposures to RCS. Because of the seriousness of the hazards associated with exposure to RCS and the prevalence of such exposures nationwide, *State Plans are required to participate in this NEP*.

State Plans are required to notify OSHA within 60 days whether the State Plan's emphasis program will be identical to or different from the federal program. If a State Plan is already implementing an emphasis program in this area, or if it adopts an initiative in response to this federal program change, its implementing policies and procedures are expected to be at least as effective as those in this Instruction.

If a State Plan adopts or maintains an emphasis program on RCS that differs from the federal program, then the State Plan shall identify the differences and shall either post its different procedures on its State Plan website and provide a link to OSHA, or provide an electronic copy to OSHA with information on how the public may obtain a copy. State Plan adoption, either identical or different, shall be accomplished within 6 months. Documentation of State Plan adoption, and the date of adoption, shall be submitted to OSHA within 60 days of adoption. OSHA will provide summary information on the State Plan responses to this Instruction on OSHA's website (www.osha.gov).... (emphasis added).

It is unclear whether IA OSHA has adopted the updated CPL-03-00-023, but the OSHA instruction makes it clear that IA OSHA must participate.

Procedures

Per section XI.C.1 discussion program procedures:

Complaint(s) or referral(s) for any general industry, maritime, or construction operation alleging potential exposures to RCS, whether or not they fall within a targeted industry of this NEP, shall be handled in accordance with the general procedures in Field Operations Manual (FOM) Chapter 9, Complaint and Referral Processing, and in accordance with the specific procedures listed below:

a. Complaints and referrals alleging potential worker exposures to RCS or involving workers with symptoms of exposure to RCS (e.g., dry chronic cough, sputum production, shortness of breath, and reduced pulmonary function) shall be treated as having priority and a health inspection shall be conducted.

b. Document the status and condition of the work operation as far as they are known, noting any potentially serious hazard(s). Where possible, this should include process information (such as the type of process or conditions of exposure) that is indicative of the likelihood of exposure to RCS. Documentation of the events leading up to the observation shall be maintained in the file.

c. Note the location of the workplace and the name and address of the employer(s) performing the operation."

Examples from the Field

October 15, 2019

After observing employees of Culver's Lawn & Landscape, Inc. performing work in the City of Davenport, IA, III FFC employee Dylan Parker filed an OSHA complaint alleging the employer had violated OSHA Standard 1926.1153(c)(1)(i), employees exposed to unsafe levels of respirable crystalline silica.

Per the IA OSHA investigative file for the complaint received via an Open Records request, a "phone & fax" was performed by IA OSHA Senior Industrial Hygienist Peggy Peterson. Per the Occupational Safety and Health Information System (OIS) document included in the Open Records request response, the complaint was marked as a "Serious" health category, but not "Imminent Danger." Additionally, no inspection was performed, but no reason for not performing the inspection was documented. Included in the Open Records request response was the contractor's response, wherein they alleged that "the pictures provided show the use of this saw and the alleged dust that was coming off the saw *was in fact mist* from the wet cutting process." No further investigation was performed on part of IA OSHA. After reviewing the investigative file, III FFC employee Dylan Parker called Peggy Peterson to express disbelief that IA OSHA would accept that response from a contractor. Peggy responded that the III FFC was welcome to formally write a letter in objection to the contractor's statement, but that the investigation was closed.

After our discussion, additional information was requested as to the extensiveness of IA OSHA's RCS investigations. Specifically, it was asked if IA OSHA investigates whether contractors maintain a written exposure control plan (926.1153(g)(1)), properly communicate with employees about RCS hazards (1926.1153(i)(1)), institute a respiratory protection program for RCS (1926.1153(e)(2)) or ensure employees can demonstrate required knowledge and understanding (1926.1153(i)(2)(i)). No response was received from IA OSHA.

November 6, 2019

After observing employees of BWC performing work in the City of LeClaire, IA, III FFC employee Dylan Parker filed an OSHA complaint alleging the employer had violated OSHA Standard 1926.1153(c)(1)(i), employees exposed to unsafe levels of respirable crystalline silica.

Per the IA OSHA investigative file for the complaint received via an Open Records request, a "phone & fax" was performed by IA OSHA Senior Industrial Hygienist Peggy Peterson. Per the Occupational Safety and Health Information System (OIS) document included in the Open Records request response, no inspection was performed, but no reason for not performing the inspection was documented.

May 27, 2020

After observing employees of Manatt's, Inc. performing work in the City of Clinton, IA, III FFC employee Andrew Waeyaert filed an OSHA complaint alleging the employer had violated OSHA Standard 1926.1153(c)(1)(i), employees exposed to unsafe levels of respirable crystalline silica. Two business days later, III FFC employee Dylan Parker contacted Peggy Peterson to follow up on Mr. Waeyaert's

complaint. He was directed to speak with a Jackie Castillo at IA OSHA. On June 1st, Ms. Castillo responded to our inquiry by asking if the III FFC received a "confirmation email," and that she was unable to locate Mr. Waeyaert's complaint in their system. Mr. Parker replied to Ms. Castillo's email with a copy of Mr. Waeyaert's complaint. Over a week later, Russel Sawvel called Mr. Parker to learn more about the complaint.

According to documents received in response to an Open Records request for the investigative file, a "phone & fax" allegation of hazard was sent to the contractor by Mr. Sawvel, 14 days after the complaint was first sent to IA OSHA. Per the Occupational Safety and Health Information System (OIS) document included in the Open Records request response, the complaint was marked as a "Serious" health category, but not "Imminent Danger." Additionally, no inspection was performed, but no reason for not performing the inspection was documented.

Iowa OSHA Field Operations Manual

The Abstract to the Field Operation Manual states: "This Instruction implements the Iowa OSHA Field Operations Manual (FOM) and replaces the March 1, 2012 Instruction that implemented the Iowa OSHA Field Operations Manual (FOM). The FOM is a revision of Iowa OSHA's enforcement policies and procedures manual that provides the office a reference document for identifying the responsibilities associated with the majority of our inspection duties." Effective date: February 11, 2018

Procedures

Chapter 9: Complaint and Referral Processing

IA OSHA distinguishes two types of complaints: formal & non-formal. Pursuant to the definitions set out in chapter 9 of the FOM, a formal complaint must:

- Assert an imminent danger, a violation of the Act, or a violation of an OSHA standard exposes employees to a potential physical or health harm in the workplace
- Be reduced to writing or submitted on an OSHA complaint form
- Be signed by at least one current employee or authorized employee representative.

In addition, a non-formal complaint is defined as: "Any complaint alleging safety or health violations that does not meet all of the requirements of a formal complaint and does not come from one of the sources identified under the definition of a Referral…" (information based on the direct observation of a compliance safety and health officer (CSHO); from sources including NIOSH, state programs, federal OSHA, consultation and state or local health departments, as well as safety and/or health professionals in other agencies; made by a whistleblower investigator; other government agency referral including federal, state or local government agencies or their employer; media report; and employer reported referral).

Per section I.C., an inspection is normally warranted if **at least one** of the conditions below is met:

- A valid formal complaint is submitted.
- Information received, meeting the criteria of a formal complaint, alleges a recordkeeping deficiency that indicates the existence of a potentially serious safety or health violation.
- Information alleges that a permanently disabling injury or illness has occurred as a result of the complained of hazard(s), and there is reason to believe that the hazard or related hazards still exist.
- The information alleges that an imminent danger situation exists (defined in Chapter 11 of the FOM)
- The information concerns an establishment and an alleged hazard covered by a local, regional, state, or national emphasis program.
- The employer fails to provide an adequate response to an injury, or the individual who provided the original information provides further evidence that the employer's response is false or does not adequately address the hazard(s). The evidence must be descriptive of current, on-going, or recurring hazardous conditions.

- The establishment that is the subject of the information has a history of egregious, willful, failure-to-abate, or repeated citations within the State during the past three years.
- A whistleblower investigator or Regional Supervisory Investigator requests that an inspection be conducted in response to an employee's allegation that the employee was discriminated against for complaining about safety or health conditions in the workplace, refusing to perform an allegedly dangerous job or task, or engaging in other activities related to occupational safety or health.
- If an inspection is scheduled or has begun at an establishment and a complaint or referral that would normally be handled via inquiry is received, that complaint or referral may, at the Administrator's discretion, be incorporated into the scheduled or ongoing inspection. If such a complaint is formal, the complainant must receive a written response addressing the complaint items.
- If the information gives reasonable grounds to believe that an employee under 18 years of age is exposed to a serious violation of a safety or health standard or a serious hazard, an onsite inspection will be initiated if the information relates to construction, manufacturing, agriculture, or other industries as determined by the Administrator.

Per section I.H., the procedures for an inspection are as follows:

1. Upon receipt of a complaint or referral, the Labor Commissioner (or his or her designee) will evaluate all available information to determine whether there are reasonable grounds to believe that a violation or hazard exists.
    a. If necessary, reasonable attempts will be made to contact the individual who provided the information in order to obtain additional details or to clarify issues raised in the complaint or referral. See the Complaint Questionnaire beginning on page 9-15.
    b. The Labor Commissioner or designee may determine not to inspect a facility if he/she has a substantial reason to believe that the condition complained of is being or has been abated.

Other than the complaint against Manatt's on May 27, 2020, an IA OSHA employee has never attempted to contact any III FFC employee to obtain additional details or to clarify issues raised in the complaint or referral.

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2. Despite the existence of a complaint, if the Labor Commissioner or designee believes there is no reasonable grounds that a violation or hazard exists, no inspection or inquiry will be conducted.
    a. Where a formal complaint has been submitted, the complainant will be notified in writing of OSHA's intent not to conduct an inspection, and the reasoning behind the determination according to Iowa Code 88.6(5). The justification for not inspecting will be noted in the case file.

b. In the event of a non-formal complaint or referral, if possible, the individual providing the information will be notified by appropriate means of OSHA's intent not to conduct an inquiry or inspection. The justification for not inspecting or conducting an inquiry will be noted in the case file.

Whether the III FFC's complaints are considered formal or non-formal by IA OSHA, the III FFC has never received any written notification of IA OSHA's intent to not conduct an inspection, when no inspection has been performed. However, IA OSHA has always performed an inquiry in response to III FFC complaints.

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3. If the information contained in the complaint <u>or referral</u> meets <u>at least one</u> of the inspection criteria listed in Paragraph I.C. of this chapter, Criteria Warranting an Inspection, and there are reasonable grounds to believe that a violation or hazard exists, the Office is authorized to conduct an inspection.
    a. If appropriate, the Office will inform the individual providing the information that an inspection will be scheduled and that he or she will be advised of the results.
    b. After the inspection, the Office will send the individual a letter addressing each information item, with reference to the citation(s) or a sufficiently detailed explanation for why a citation was not issued.

IA OSHA has never, to the III FFC's knowledge, performed an inspection in response to a complaint submitted by our organization.
However, with respect to complaints submitted alleging a hazard covered by a local, regional, state, or national emphasis program, III FFC complaints meet the criteria warranting an inspection, as defined in Paragraph I.C.5. of Chapter 9.

EXHIBIT 11

COMPLAINT COVERSHEET

Copy to:
Inspector
Perry
Peddy
Beer
Kain

Inspector Last Name:

Complaint Received: Apr 20, 2020 9:30:00 AM

Assigned Date:

Date On-site:

Date Entered in OIS: 04/20/20

5 Working Days: 04/27/20

Complaint Type: Complaint

UPA#: 1574259

NAICS: 311611

CF#: 12843

Company Information: Tyson Fresh Meats
501 North Elk Run Road
WATERLOO, IA 50703

Bret Tapken

(319) 236-9348

Scope = Complaint/all programs relating to complaint items.

Inspector must complete fields in red.

Notice of Alleged Safety or Health Hazards

Complaint Number	1574259

Establishment Name	Tyson Fresh Meats			
Site Address	501 North Elk Run Road, Waterloo, IA 50703			
	Site Phone	319-236-9401	Site FAX	319-236-9417
Mailing Address	P.O. Box 2788 Waterloo, IA 50703			
	Mail Phone	319-236-9401	Mail FAX	319-236-9417
Management Official	Bret Tapken		Telephone	319-236-9348
Type of Business				
Primary SIC		Primary NAICS	311611 - Animal (except Poultry) Slaughtering	

HAZARD DESCRIPTION/LOCATION. Describe briefly the hazard(s) which you believe exist. Include the approximate number of employees exposed to or threatened by each hazard. Specify the particular building or worksite where the alleged violation exists.

April 20, 2020

Health:

1. Employees are exposed to COVID-19 hazards. The Centers for Disease Control and Prevention guidelines are not being implemented.

2. Personal protective equipment is not available to employees.

3. Employees are reporting to work when they are ill. COVID-19 hazards are not effectively communicated to non-English speaking employees.

4. Employees' temperature checks are inaccurate.

5. Common areas are disinfected infrequently.

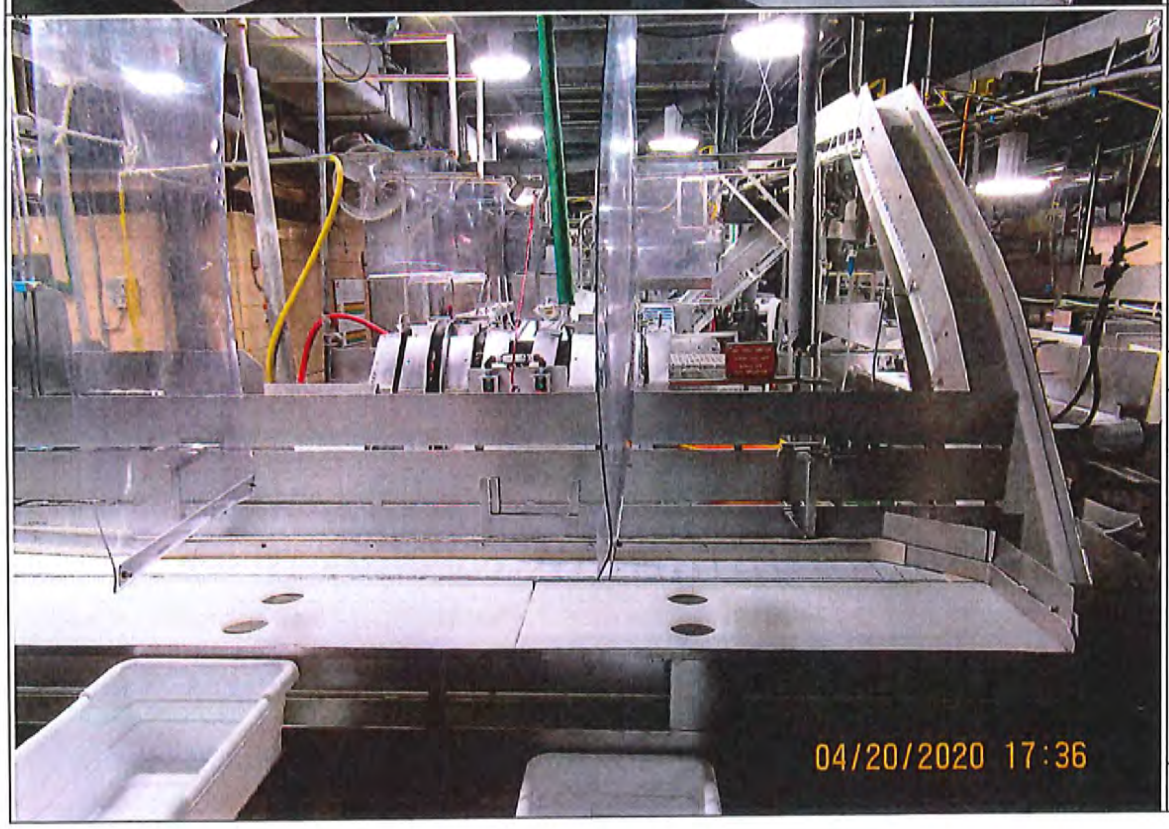
Location: Production areas, break rooms, locker rooms

EXHIBIT 12

Photo Mounting Worksheet

Iowa
Occupational
Safety and
Health
Administration

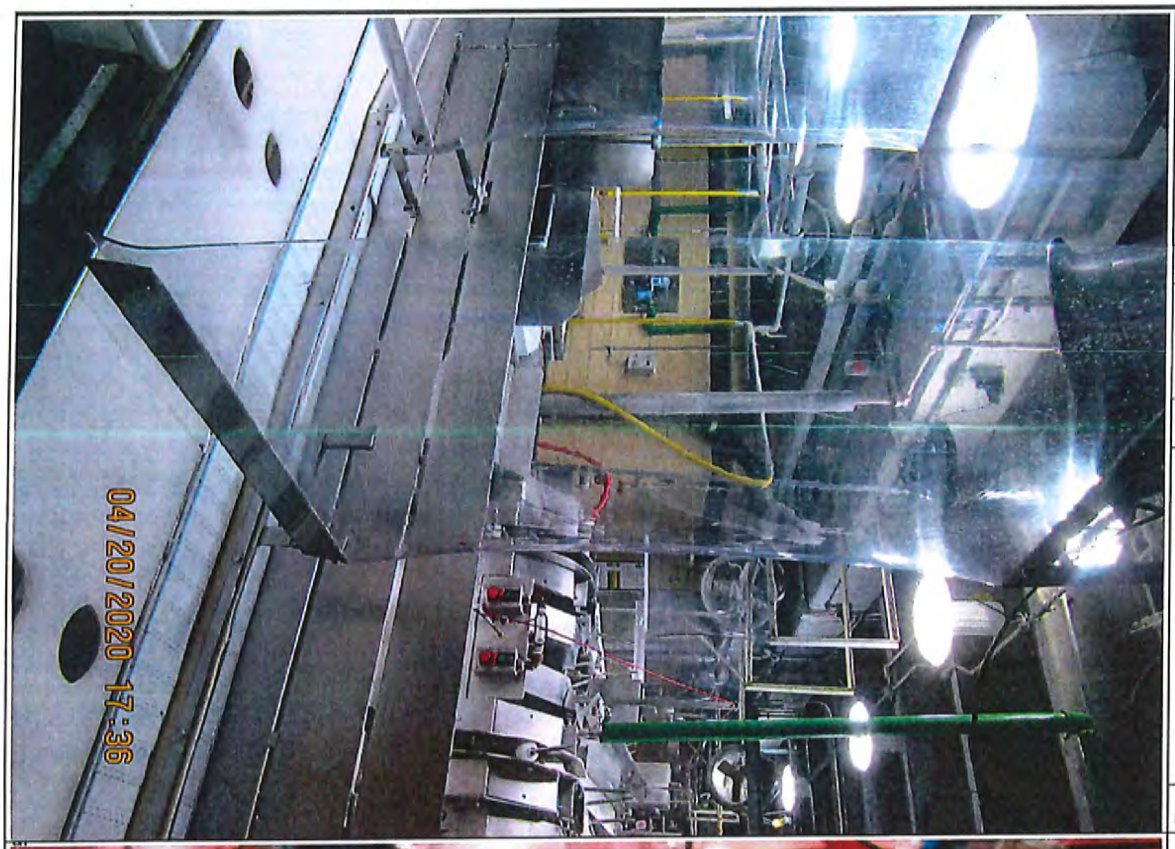
Inspection No.		
1473229		
1. Photo ID No. 1	2. Date & Time 4/20/2020	
3. Citation No.	4. Item No.	5. Instance No.
6. Location (Photo and Photographer)		
Harvest Floor.		
7. Description		
Photo depicts plastic barriers between worker stations.		
8.	Confidential Materials	Cont.



1. Photo ID No. 2	2. Date & Time 4/20/2020	
3. Citation No.	4. Item No.	5. Instance No.
6. Location (Photo and Photographer)		
Harvest Floor.		
7. Description		
Photo depicts plastic barriers between worker stations.		
8.	Confidential Materials	Cont.

Photo Mounting Worksheet

Iowa
Occupational
Safety and
Health
Administration

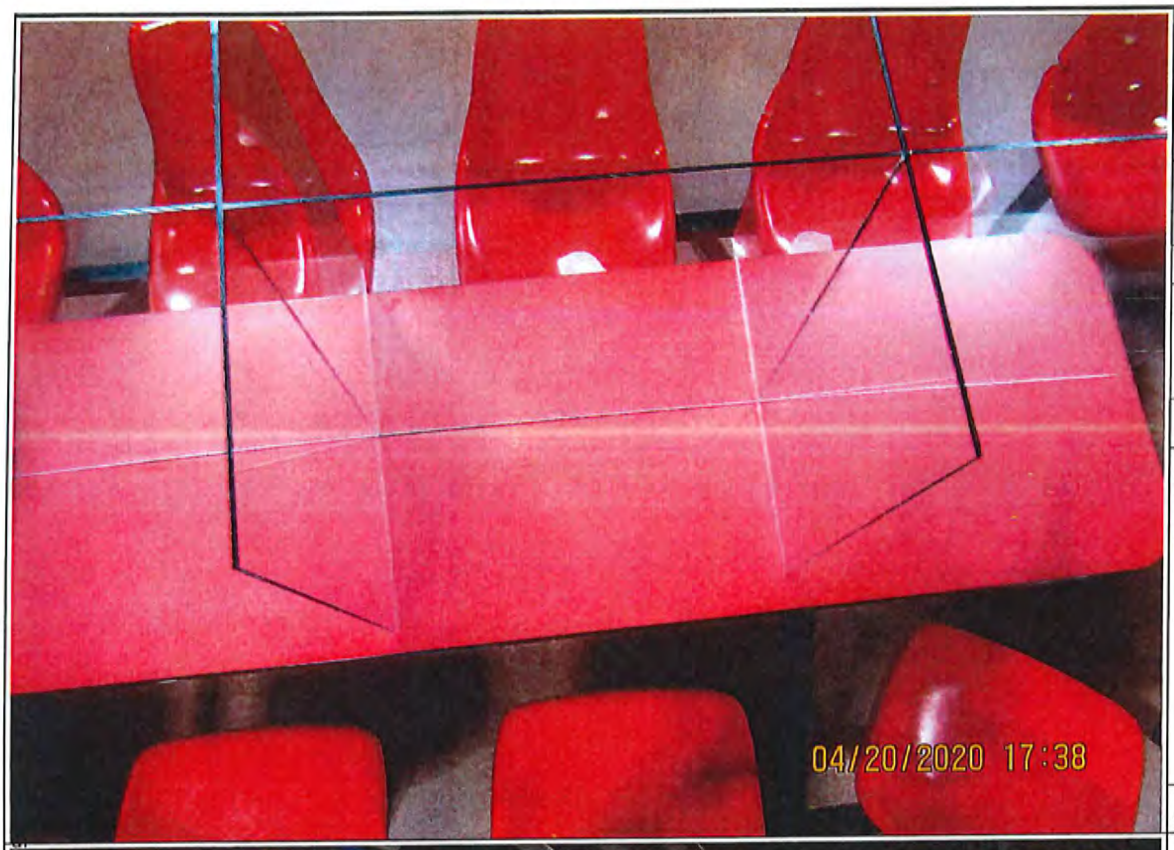


Inspection No.		
1473229		
1. Photo ID No. 3	2. Date & Time 4/20/2020	
3. Citation No.	4. Item No.	5. Instance No.
6. Location (Photo and Photographer)		
Harvest Floor.		
7. Description		
Photo depicts plastic barriers between worker stations.		
8.	Confidential Materials	Cont.

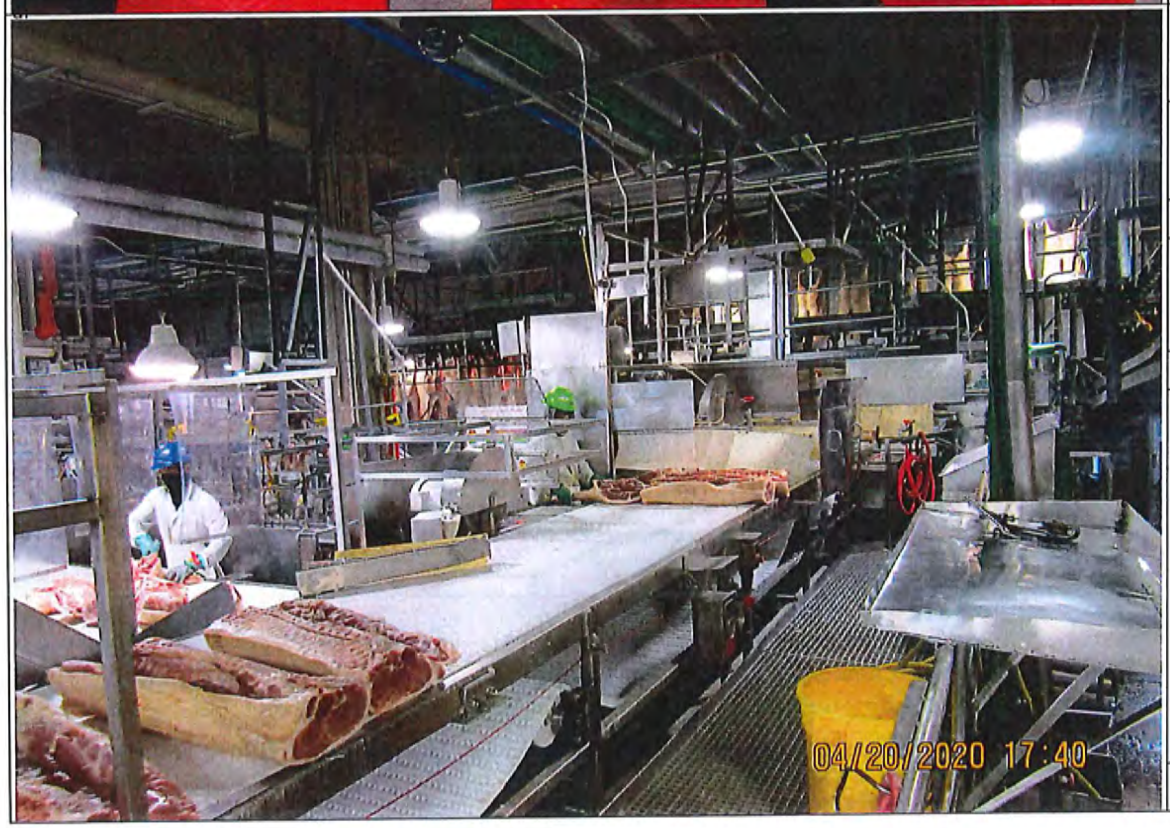
1. Photo ID No. 4	2. Date & Time 4/20/2020	
3. Citation No.	4. Item No.	5. Instance No.
6. Location (Photo and Photographer)		
Cafeteria.		
7. Description		
Photo depicts Lexan barriers on cafeteria tables.		
8.	Confidential Materials	Cont.

Photo Mounting Worksheet

Iowa
Occupational Safety and Health Administration



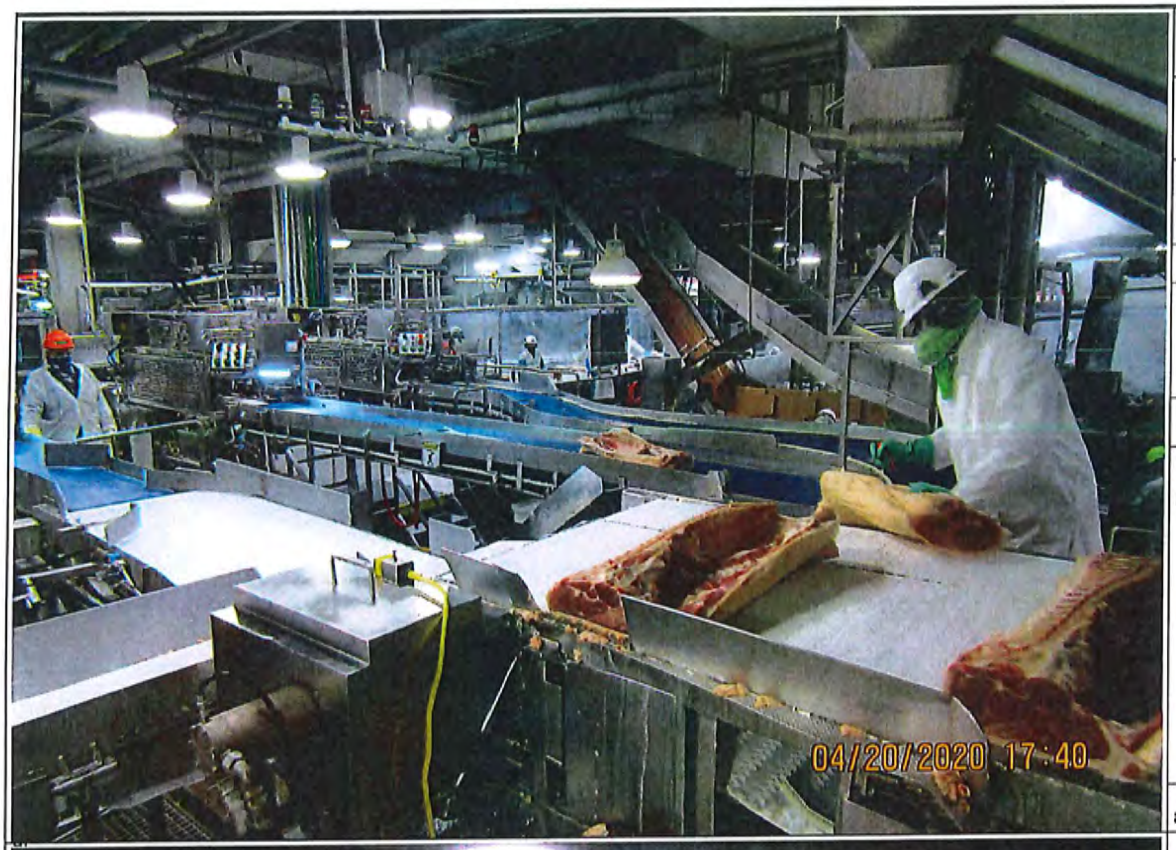
Inspection No.		
1473229		
1. Photo ID No. 5	2. Date & Time 4/20/2020	
3. Citation No.	4. Item No.	5. Instance No.
6. Location (Photo and Photographer)		
Cafeteria.		
7. Description		
Photo depicts Lexan barriers on cafeteria tables.		
8.	Confidential Materials	Cont.



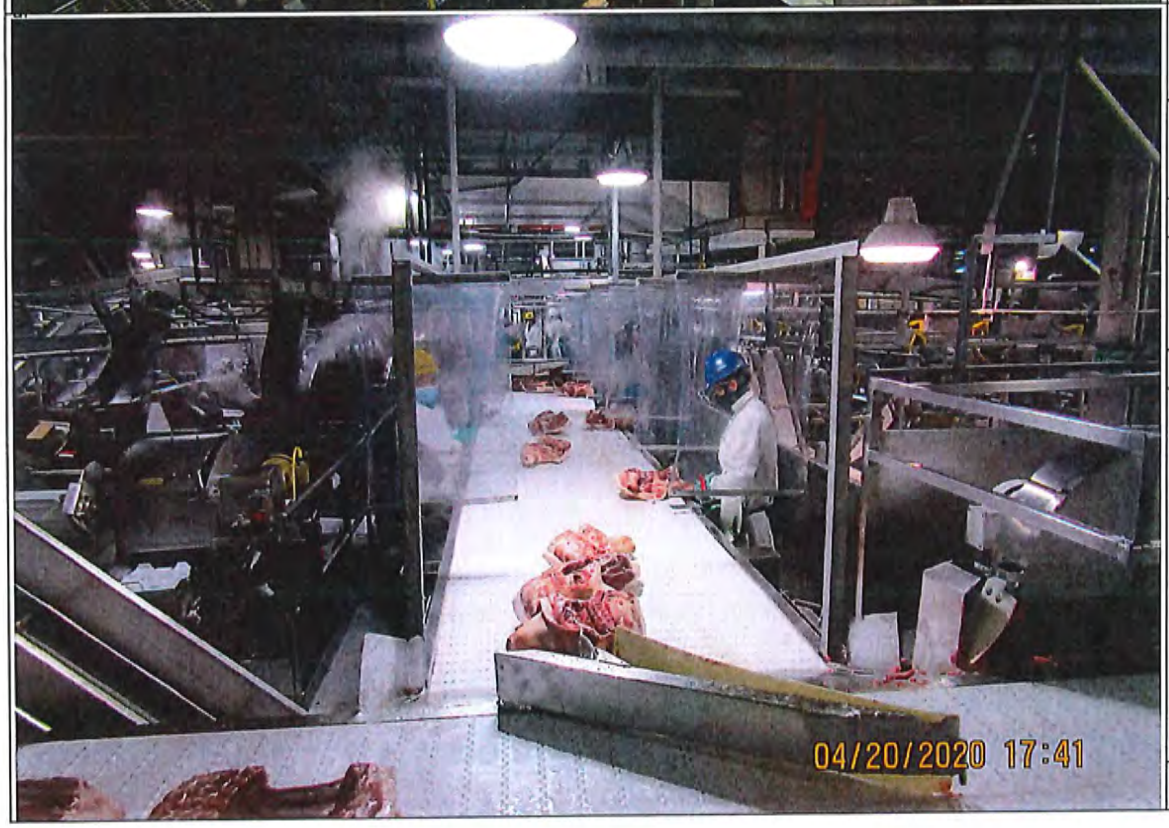
1. Photo ID No. 6	2. Date & Time 4/20/2020	
3. Citation No.	4. Item No.	5. Instance No.
6. Location (Photo and Photographer)		
Cut Floor.		
7. Description		
Photo depicts working conditions in the facility.		
8.	Confidential Materials	Cont.

Photo Mounting Worksheet

Iowa
Occupational
Safety and
Health
Administration



Inspection No. **1473229**		
1. Photo ID No. 7	2. Date & Time 4/20/2020	
3. Citation No.	4. Item No.	5. Instance No.
6. Location (Photo and Photographer)		
Cut Floor.		
7. Description		
Photo depicts working conditions in the facility.		
8.	Confidential Materials	Cont.



1. Photo ID No. 8	2. Date & Time 4/20/2020	
3. Citation No.	4. Item No.	5. Instance No.
6. Location (Photo and Photographer)		
Cut Floor.		
7. Description		
Photo depicts working conditions in the facility.		
8.	Confidential Materials	Cont.

Photo Mounting Worksheet

Iowa
Occupational
Safety and
Health
Administration

Inspection No.		
1473229		
1. Photo ID No. 9	2. Date & Time 4/20/2020	
3. Citation No.	4. Item No.	5. Instance No.
6. Location (Photo and Photographer)		
Cut Floor.		
7. Description		
Photo depicts working conditions in the facility.		
8.	Confidential Materials	Cont.

1. Photo ID No. 10	2. Date & Time 4/20/2020	
3. Citation No.	4. Item No.	5. Instance No.
6. Location (Photo and Photographer)		
Cut Floor.		
7. Description		
Photo depicts working conditions in the facility.		
8.	Confidential Materials	Cont.

Photo Mounting Worksheet

Iowa
Occupational
Safety and
Health
Administration

Inspection No.		
1473229		
1. Photo ID No. 11	2. Date & Time 4/20/2020	
3. Citation No.	4. Item No.	5. Instance No.
6. Location (Photo and Photographer)		
Load Out Department.		
7. Description		
Photo depicts working conditions in the facility.		
8.	Confidential Materials	Cont.

1. Photo ID No. 12	2. Date & Time 4/20/2020	
3. Citation No.	4. Item No.	5. Instance No.
6. Location (Photo and Photographer)		
Ham Line.		
7. Description		
Photo depicts working conditions in the facility.		
8.	Confidential Materials	Cont.

Photo Mounting Worksheet

Iowa
Occupational
Safety and
Health
Administration

Inspection No.		
1473229		
1. Photo ID No. 13	2. Date & Time 4/20/2020	
3. Citation No.	4. Item No.	5. Instance No.
6. Location (Photo and Photographer)		
Cut Floor.		
7. Description		
Photo depicts working conditions in the facility.		
8.	Confidential Materials	Cont.

1. Photo ID No. 14	2. Date & Time 4/20/2020	
3. Citation No.	4. Item No.	5. Instance No.
6. Location (Photo and Photographer)		
Cut Floor.		
7. Description		
Photo depicts working conditions in the facility.		
8.	Confidential Materials	Cont.

Photo Mounting Worksheet

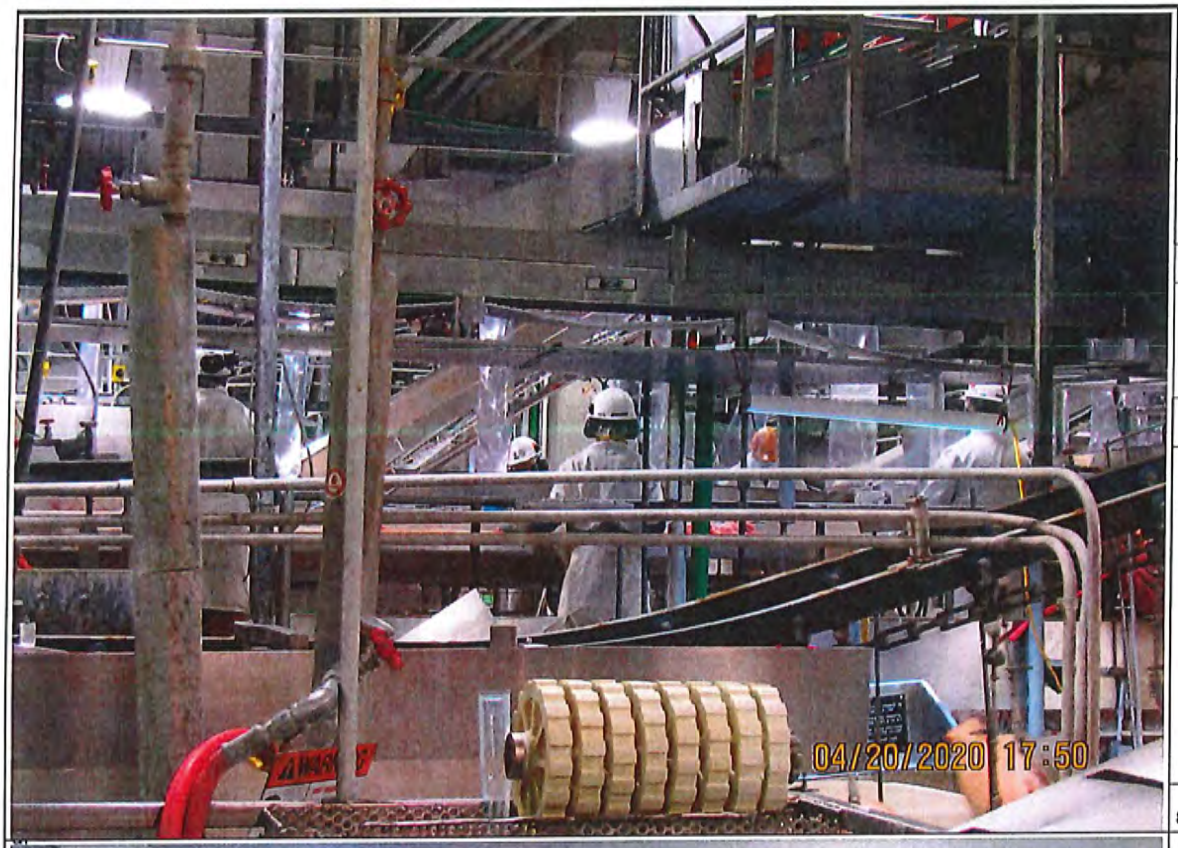
Iowa
Occupational
Safety and
Health
Administration

Inspection No.		
1473229		
1. Photo ID No. 15	2. Date & Time 4/20/2020	
3. Citation No.	4. Item No.	5. Instance No.
6. Location (Photo and Photographer)		
Cut Floor.		
7. Description		
Photo depicts working conditions in the facility.		
8.	Confidential Materials	Cont.

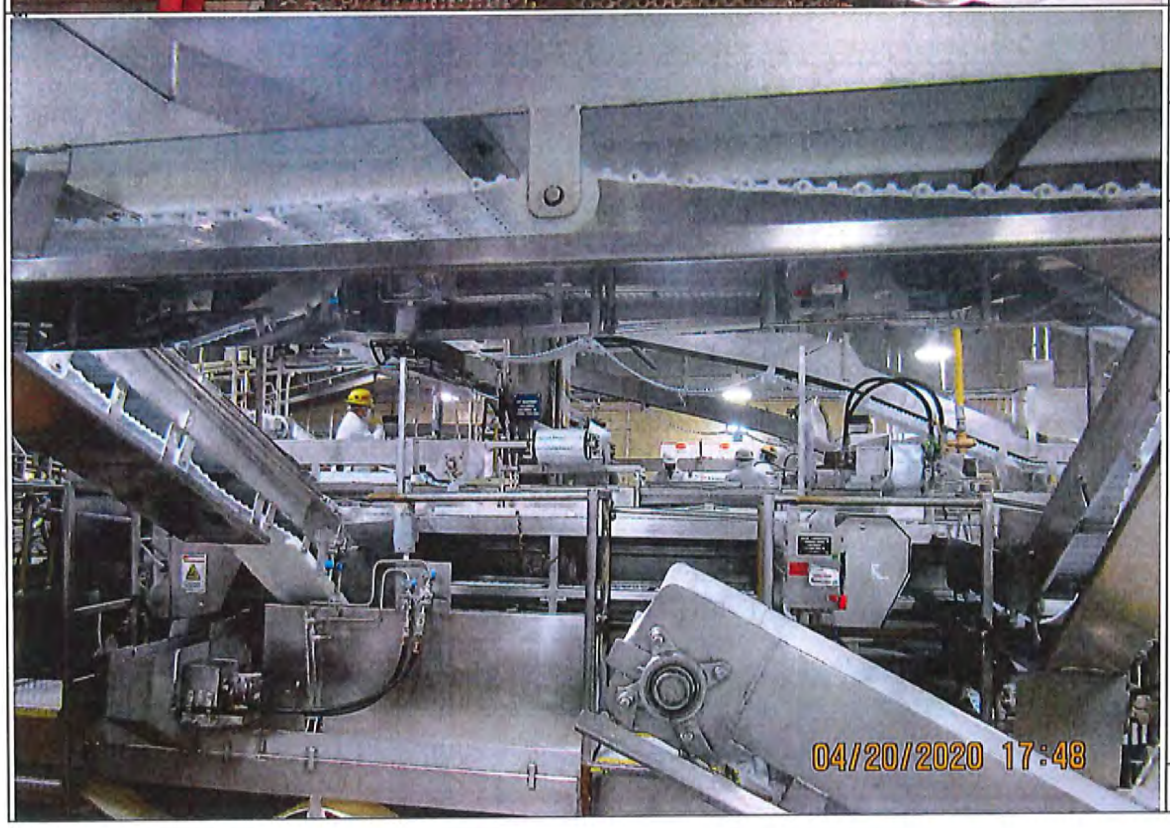
1. Photo ID No. 16	2. Date & Time 4/20/2020	
3. Citation No.	4. Item No.	5. Instance No.
6. Location (Photo and Photographer)		
Cut Floor.		
7. Description		
Photo depicts working conditions in the facility.		
8.	Confidential Materials	Cont.

Photo Mounting Worksheet

Iowa
Occupational
Safety and
Health
Administration



Inspection No.		
1473229		
1. Photo ID No. 17	2. Date & Time 4/20/2020	
3. Citation No.	4. Item No.	5. Instance No.
6. Location (Photo and Photographer)		
Cut Floor.		
7. Description		
Photo depicts working conditions in the facility.		
8.	Confidential Materials	Cont.



1. Photo ID No. 18	2. Date & Time 4/20/2020	
3. Citation No.	4. Item No.	5. Instance No.
6. Location (Photo and Photographer)		
Cut Floor.		
7. Description		
Photo depicts working conditions in the facility.		
8.	Confidential Materials	Cont.

EXHIBIT 13

FINAL

Activity Number: 1565152 | Establishment/DBA Name: Swift Pork Company/ JBS USA Pork | RID: 0751910

Establishment Information

Establishment Information

Establishment Name: Swift Pork Company
Establishment DBA: JBS USA Pork
Establishment ID: 1023395488
Ownership: Private Sector
Primary NAICS: 311611 - Animal (except Poultry) Slaughtering
Type of Business: Corporation

Injury Illness

Business Address

Street Address 1: 402 North 10th Avenue
Street Address 2:
Country: UNITED STATES OF AMERICA
State: IOWA
City: MARSHALLTOWN
County: MARSHALL
Zip Code: 50158
E-mail Address: bradley.comstock@jbssa.com
Phone Number: 6417527131
Fax: 641-752-8497

Mailing Address

Street Address 1: PO Box 280
Street Address 2:
Country: UNITED STATES OF AMERICA
State: IOWA
City: MARSHALLTOWN
County: MARSHALL
Zip Code: 50158

Site Address

Street Address 1: 402 North 10th Avenue
Street Address 2:
City: MARSHALLTOWN
State: IOWA
County: MARSHALL
Zip Code: 50158
Phone Number: 641-752-7131
Phone Number Extn:
Fax: 641-752-8497
Number of Employees: 2700

Management/Business Type

Management Official First Name: Bradley
Last Name: Comstock
Type of Business: Meat Industry
Primary NAICS: 311611 - Animal (except Poultry) Slaughterin
Official Phone: 641-752-7131
Type of Site Activity: Meat processing
Official Phone Extension:

Receipt Information

Receipt Information

Received By :
Receipt Date : 04/01/2020
Receipt Type : Online
Receipt Time: 12:40 PM
Activity Type : Complaint
Formality: Nonformal

Complaint / Referral - Subject / Severity

Discrimination: No

Safety

Imminent Danger: No Serious: No Other: No

Health

Imminent Danger: No Serious: Yes Other: No

Hazard Description And Location: April 3, 2020 Health: 1. Employees are exposed to COVID-19 due to the high density of employees that work in close proximity. This includes cutting rooms, processing rooms, break rooms, dressing rooms. Employees are still working shoulder to shoulder. 2. Employees are limited on their personal protective equipment. 3. Employees are required to work with signs and symptoms of COVID-19.

No. of Alleged Hazards: 3

No. Employees Exposed (Removed from Alleged Hazard): 2700

Source Information

Source : 1

Source Type: Other (specify)
Prefix:
First Name: Joe
Last Name: Enriquez Henry
Suffix:
Job Title: League of United Latin American Citizens
E-mail Address: jhenry@lulac.org
CSHO ID:
CSHO First Name:
CSHO Last Name:
CSHO Job Title:
Date Separated:
Relationship:
Other:

Phone Number: 5152087312
Phone Number Extn:
Fax Number:
Reveal Source Name: Yes
Organization Name:
Organization Title:
Bought To Attention of: Employer
Name Of The Govt Agency:
Street Address 1: 2463 E Highview Dr
Street Address 2:
City: DES MOINES
State: IOWA
Country: UNITED STATES OF AMERICA
Zip Code: 50320

Assign/Transfer Information

Assignment

Assigned CSHO's Login Name

Assigned Supervisor's Login Name

B3283

Additional Fat Cat Information

Classification

Classification:
No. Hospitalized:
No. Unaccounted For:
No. Fatalities:
No. Non-Hospitalized:

Employer Report Date:
Employer Report Time:
Event Date:
Event Time:
Incident Type:

Do Inspection

Do Inspection?: No

Explanation:

Reason for No Inspection:

Complaint/ Referral Information

Close Complaint/Referral?: Yes

Complaint/Referral Action Source : 1

Action Date: 04/01/2020

Action Type: Contact with Source

Type of Letter: Acknowledgement-Receipt of Complaint

Communication Method: Email Letter

Days to Respond: 5

Date Response Due: 04/08/2020

Complaint/Referral Action Source : 2

Action Date: 04/03/2020

Action Type: Contact with Employer

Type of Letter: Other

Communication Method: Phone Discussion

Days to Respond: 5

Date Response Due: 04/10/2020

Complaint/Referral Action Source : 3

Action Date: 04/03/2020

Action Type: Valid = Y

Complaint/Referral Action Source : 4

Action Date: 04/03/2020

Action Type: Do Inspection = N

Reason for No Inspection: COVID 19 sending link to guidelines

Complaint/Referral Action Source : 5

Action Date: 04/03/2020

Action Type: Contact with Employer

Type of Letter: Initiate Inquiry by Phone/Email to be followed by Letter

Communication Method: Email Letter

Days to Respond: 5

Date Response Due: 04/10/2020

Complaint/Referral Response Source : 1

Date Response Received: 04/09/2020

Type Response Recieved: Employer - Response with Corrective Action Described

Evaluation: Satisfactory

Evaluated By: sawvel.russell

Program Information

National Emphasis Programs

Local Emphasis Programs

Federal Strategic Initiative :

State Strategic Initiative :

Migrant Farm Worker Camp: No

Additional Codes:

Type	Id	Value	Description
N	16	COVID-19	Response activities related to the COVID-19 Coronav...

EXHIBIT 14

FINAL

Activity Number: 1567798 | Establishment/DBA Name: Agri Star Meat and Poultry LLC | RID: 0751910

Establishment Information

Establishment Information

Establishment Name: Agri Star Meat and Poultry LLC
Establishment DBA:
Establishment ID: 1026569448
Ownership: Private Sector
Primary NAICS: 311612 - Meat Processed from Carcasses
Type of Business: Corporation

Injury Illness

Business Address

Street Address 1: 220 N West Street
Street Address 2:
Country: UNITED STATES OF AMERICA
State: IOWA
City: POSTVILLE
County: ALLAMAKEE
Zip Code: 52162
E-mail Address: dguerrero@agristarmeatandpoultry.com
Phone Number: 5638647811
Fax:

Mailing Address

Street Address 1: 220 N West Street
Street Address 2: PO Box 920
Country: UNITED STATES OF AMERICA
State: IOWA
City: POSTVILLE
County: ALLAMAKEE
Zip Code: 52162

Site Address

Street Address 1: 220 N West Street
Street Address 2:
City: POSTVILLE
State: IOWA
County: ALLAMAKEE
Zip Code: 52162
Phone Number: 563-864-7811
Phone Number Extn:
Fax:
Number of Employees: 2000

Management/Business Type

Management Official First Name: Diane
Last Name: Guerrero
Type of Business: Meat Processing
Primary NAICS: 311612 - Meat Processed from Carcasses
Official Phone: 563-864-7811
Type of Site Activity: Meat Processing
Official Phone Extension:

Receipt Information

Receipt Information

Received By :
Receipt Date : 04/03/2020
Receipt Type : Phone
Receipt Time: 11:00 AM
Activity Type : Complaint
Formality: Nonformal

Complaint / Referral - Subject / Severity

Discrimination: No

Safety

Imminent Danger: No | Serious: No | Other: No

Health

Imminent Danger: No | Serious: Yes | Other: No

Hazard Description And Location: April 8, 2020 Health: 1. Employees are exposed to COVID-19. The employer is not following guidelines that have been established to reduce the exposure to Coronavirus pandemic. Employees work in close proximity. Several employees are required to come to work ill. One person was admitted to the hospital. The employer has not provided personal protective equipment. 2. Management is telling workers that COVID-19 is a lie and it has been made up by the government. People are using the pandemic as a way to get out of work, but they are not ill.

No. of Alleged Hazards: 2

No. Employees Exposed (Removed from Alleged Hazard): 2000

Source Information

Source : 1

Source Type: Employee Representative
Prefix:
First Name: Lorranie
Last Name: Gaynor
Suffix:
Job Title: Attorney Farm worker Rights
E-mail Address: lgaynor@iowalaw.org
CSHO ID:
CSHO First Name:
CSHO Last Name:
CSHO Job Title:
Date Separated:
Relationship:
Other:

Phone Number: 3193314048
Phone Number Extn:
Fax Number:
Reveal Source Name: Yes
Organization Name:
Organization Title:
Bought To Attention of: Employer
Name Of The Govt Agency:
Street Address 1: 1700 S 1st Ave Suite 10
Street Address 2:
City: IOWA CITY
State: IOWA
Country: UNITED STATES OF AMERICA
Zip Code: 52240

Source : 2

Source Type: Anonymous
Prefix:
First Name:
Last Name:
Suffix:
Job Title:
E-mail Address:
CSHO ID:
CSHO First Name:
CSHO Last Name:
CSHO Job Title:
Date Separated:
Relationship:
Other:

Phone Number:
Phone Number Extn:
Fax Number:
Reveal Source Name: No
Organization Name:
Organization Title:
Bought To Attention of:
Name Of The Govt Agency:
Street Address 1:
Street Address 2:
City:
State:
Country: UNITED STATES OF AMERICA
Zip Code:

Assign/Transfer Information

Assignment

Assigned CSHO's Login Name

Assigned Supervisor's Login Name
B3283

Additional Fat Cat Information

Classification

Classification:
No. Hospitalized:
No. Unaccounted For:

Employer Report Date:
Employer Report Time:
Event Date:

No. Fatalities: Event Time:
No. Non-Hospitalized: Incident Type:

Do Inspection

Do Inspection?: No Explanation:
Reason for No Inspection:

Complaint/ Referral Information

Close Complaint/Referral?: Yes

Complaint/Referral Action Source : 1

Action Date: 04/03/2020
Action Type: Contact with Employer
Type of Letter: Initiate Inquiry by Phone/Email to be followed by Letter
Communication Method: Phone Discussion
Days to Respond: 5
Date Response Due: 04/10/2020

Complaint/Referral Action Source : 2

Action Date: 04/06/2020
Action Type: Contact with Employer
Type of Letter: Other
Communication Method: Phone Discussion
Days to Respond: 5
Date Response Due: 04/13/2020

Complaint/Referral Action Source : 3

Action Date: 04/07/2020
Action Type: Contact with Source
Type of Letter: Acknowledgement-Receipt of Complaint
Communication Method: Email Letter
Days to Respond: 5
Date Response Due: 04/14/2020

Complaint/Referral Action Source : 4

Action Date: 04/08/2020
Action Type: Valid = Y

Complaint/Referral Action Source : 5

Action Date: 04/08/2020
Action Type: Do Inspection = N
Reason for No Inspection: COVID 19 guideline

Complaint/Referral Action Source : 6

Action Date: 04/08/2020
Action Type: Contact with Employer
Type of Letter: Initiate Inquiry by Phone/Email to be followed by Letter
Communication Method: Email Letter
Days to Respond: 5
Date Response Due: 04/15/2020

Complaint/Referral Response Source : 1

Date Response Received: 04/14/2020

Type Response Recieved: Employer - Response with Corrective Action Described

Evaluation: Satisfactory

Evaluated By: kain.melissa

Program Information

National Emphasis Programs

Local Emphasis Programs

Federal Strategic Initiative :

State Strategic Initiative :

Migrant Farm Worker Camp: No

Additional Codes:

Type	Id	Value	Description
N	16	COVID-19	Response activities related to the COVID-19 Coronav...

EXHIBIT 15

FINAL

Activity Number: 1570949 | Establishment/DBA Name: Tyson Fresh Meats, Inc./ Tyson Foods, Inc. | RID: 0751910

Establishment Information

Establishment Information

Establishment Name: Tyson Fresh Meats, Inc.
Ownership: Private Sector
Type of Business: Corporation
Establishment DBA: Tyson Foods, Inc.
Establishment ID: 1020888688
Primary NAICS: 311612 - Meat Processed from Carcasses

Injury Illness

Business Address

Street Address 1: 13500 I Court
Street Address 2:
Country: UNITED STATES OF AMERICA
State: IOWA
City: PERRY
County: DALLAS
Zip Code: 50220
E-mail Address: doug.white@tyson.com
Phone Number: 5154659728
Fax:

Mailing Address

Street Address 1: PO Box 7
Street Address 2:
Country: UNITED STATES OF AMERICA
State: IOWA
City: PERRY
County: DALLAS
Zip Code: 50220

Site Address

Street Address 1: 13500 I Court
Street Address 2:
City: PERRY
State: IOWA
County: DALLAS
Zip Code: 50220
Phone Number: 515-465-9728
Phone Number Extn:
Fax:
Number of Employees: 1300

Management/Business Type

Management Official First Name: Doug
Last Name: White
Type of Business: Pork Producers
Primary NAICS: 311612 - Meat Processed from Carcasses
Official Phone: 515-465-9728
Type of Site Activity: meat packing
Official Phone Extension:

Receipt Information

Receipt Information

Received By :
Receipt Date : 04/11/2020
Receipt Type : Online
Receipt Time: 12:30 PM
Activity Type : Complaint
Formality: Nonformal

Complaint / Referral - Subject / Severity

Discrimination: No

Safety

Imminent Danger: No Serious: No Other: No

Health

Imminent Danger: No Serious: Yes Other: No

Hazard Description And Location: April 14, 2020 Health: 1. Employees are exposed to COVID-19 as 1300 employees are elbow to elbow. The employer is not following social distancing guidelines. This includes production floor in all areas and cafeteria.

No. of Alleged Hazards: 1

No. Employees Exposed (Removed from Alleged Hazard): 1300

Source Information

Source : 1

Source Type: Ex-Employee
Prefix:
First Name: [redacted]
Last Name: [redacted]
Suffix:
Job Title:
E-mail Address: [redacted]
CSHO ID:
CSHO First Name:
CSHO Last Name:
CSHO Job Title:
Date Separated:
Relationship:
Other:

Phone Number: [redacted]
Phone Number Extn:
Fax Number:
Reveal Source Name: No
Organization Name:
Organization Title:
Bought To Attention of: Employer
Name Of The Govt Agency:
Street Address 1: [redacted]
Street Address 2:
City: [redacted]
State: IOWA
Country: UNITED STATES OF AMERICA
Zip Code: [redacted]

CONFIDENTIAL

Assign/Transfer Information

Assignment

Assigned CSHO's Login Name

Assigned Supervisor's Login Name

B3283

Additional Fat Cat Information

Classification

Classification:
No. Hospitalized:
No. Unaccounted For:
No. Fatalities:
No. Non-Hospitalized:

Employer Report Date:
Employer Report Time:
Event Date:
Event Time:
Incident Type:

Do Inspection

Do Inspection?: No
Reason for No

Explanation:

Inspection:

Complaint/ Referral Information

Close Complaint/Referral?: Yes

Complaint/Referral Action Source : 1

Action Date: 04/13/2020
Action Type: Contact with Source
Type of Letter: Acknowledgement-Receipt of Complaint
Communication Method: Email Letter
Days to Respond: 5
Date Response Due: 04/20/2020

Complaint/Referral Action Source : 2

Action Date: 04/20/2020
Action Type: Valid = Y

Complaint/Referral Action Source : 3

Action Date: 04/20/2020
Action Type: Contact with Employer
Type of Letter: Initiate Inquiry by Phone/Email to be followed by Letter
Communication Method: Email Letter
Days to Respond: 5
Date Response Due: 04/27/2020

Complaint/Referral Action Source : 4

Action Date: 04/20/2020
Action Type: Contact with Employer
Type of Letter: Initiate Inquiry by Phone/Email to be followed by Letter
Communication Method: Phone Discussion
Days to Respond: 5
Date Response Due: 04/27/2020

Complaint/Referral Action Source : 5

Action Date: 04/20/2020
Action Type: Do Inspection = N
Reason for No Inspection: COVID 19

Complaint/Referral Action Source : 6

Action Date: 04/28/2020
Action Type: Contact with Employer
Type of Letter: Response to Inquiry Satisfactory
Communication Method: Email Letter
Days to Respond:

Date Response Due:

Program Information

National Emphasis Programs

Local Emphasis Programs

Federal Strategic Initiative :

State Strategic Initiative :

Migrant Farm Worker Camp: No

Additional Codes:

Type	Id	Value	Description
N	16	COVID-19	Response activities related to the COVID-19 Coronav...

EXHIBIT 16

Via Email Only (peggy.peterson@iwd.iowa.gov)

Peggy Peterson, Senior Industrial Hygienist
Iowa OSHA Complaints, Division of Labor
150 Des Moines Street
Des Moines, IA 50309-1836

Re: OSHA Complaint No. 1565152

Dear Ms. Peterson:

This letter is in response to the Complaint we received from Iowa OSHA, dated 04/03/2020. The Complaint lacks merit. Following are some of the precautions Swift Pork Company – Marshalltown has taken with respect to COVID-19:

We have implemented a COVID-19 screening program. We take the temperature of our employees before they enter the plant. This is done through use of infrared thermal camera/scanners which automatically alert us if an employee attempting to enter the plant has an elevated temperature. Any employee exhibiting an elevated temperature or other COVID-19 symptom is not allowed to enter the plant. In addition, all employees who have missed work are denied entry (by blocking IDs) until passing enhanced COVID-19 screening requiring explanation for the absence and whether they have traveled abroad recently.

We have increased deep cleaning and sanitizing of our plant, with dedicated cleaning teams disinfecting production and welfare areas, including common walkways from parking lots, on a regular basis.

We have set up a tent outside our plant, equipped with tables and seating arranged to comply with recommended social distancing guidelines. The tent provides additional space for employees during breaks.

We continue to work to secure and provide protective face coverings for our processing employees, and have procured balaclavas and face shields which are being distributed to employees.

We have taken additional preventative measures, including: staggering production start times and break times to reduce the number of employees in locker and break rooms at the same time; installation of additional hand sanitizing and wash stations; and we are evaluating many additional methods of promoting social distancing such as installing dividers between work stations.

The company has partnered with epidemiologists at the Colorado School of Public Health-Center for Health, Work and Environment to identify and develop potential, additional protective measures feasible for implementation at our processing plants.

I trust this information is responsive to your letter. Swift Pork Company is committed to providing its team with a healthy and safe work environment. Please let me know if you need additional information.

Very truly yours,

Bradley Comstock
Safety Manager,
Swift Pork Company — Marshalltown, IA

20007826

EXHIBIT 17

From: Sawvel, Russell <russell.sawvel@iwd.iowa.gov>
Sent: Monday, August 24, 2020 2:23 PM
To: Dylan Parker <DParker@iiiffc.org>
Subject: Re: Silica OSHA Complaint - Manatt's - Davenport, IA

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

The complaint number is 1648934

OSHA.gov is a good resource for definitions, https://www.osha.gov/as/opa/worker/danger.html

Russell Sawvel
Senior Industrial Hygienist
Iowa Division of Labor
150 Des Moines Street
Des Moines, IA 50309
515-725-5601

On Mon, Aug 24, 2020 at 1:14 PM Dylan Parker <DParker@iiiffc.org> wrote:

> Russ,
>
> Can you provide me with a rationale as to why you have determined this to not be an imminent danger? Was your determination made in accordance to Chapter 11 of Iowa OSHA's Field Operations Manual?
>
> Thank you,
>
> Dylan
>
> ---
>
> **From:** Sawvel, Russell <russell.sawvel@iwd.iowa.gov>
> **Sent:** Monday, August 24, 2020 1:08 PM
> **To:** Dylan Parker <DParker@iiiffc.org>
> **Subject:** Re: Silica OSHA Complaint - Manatt's - Davenport, IA
>
> **CAUTION:** This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.
>
> Good Afternoon Mr. Parker,
>
> I do not believe this is an imminent danger.
>
> Previously, complaint number 1602876 with Manatts in Clinton, IA was in regards to concrete dust and silica.
>
> I will provide a complaint number for the new complaint with Manatts in Davenport. You may wish to follow-up in regards to the inspection number.
>
> Russell Sawvel
> Senior Industrial Hygienist
> Iowa Division of Labor
> 150 Des Moines Street
> Des Moines, IA 50309
> 515-725-5601
>
> On Mon, Aug 24, 2020 at 11:33 AM Dylan Parker <DParker@iiiffc.org> wrote:
>
> > Hello,

Please see attached complaint form and pictures documenting a violation of OSHA standard 1926.1153, exposing two employees of Manatt's, Inc. to respirable crystalline silica in Davenport, Iowa. Please note, our organization filed an OSHA complaint against Manatt's, Inc. for this same violation on May 27, 2020 in Clinton, Iowa. Additionally, Manatt's, Inc. is currently under investigation by Iowa OSHA for a fatality that occurred in Bettendorf, Iowa earlier this year. Due to the repeat violation(s) and national emphasis program regarding silica exposure, can we expect this complaint to be treated as an *imminent danger* and an investigation—not a phone & fax—to take place by Iowa OSHA?

Let me know if you have any questions or require more information from me. I respectfully request to remain informed of Iowa OSHA's investigation and would appreciate a summary of your findings after it has been closed.

Thank you,

Dylan Parker, Construction Analyst

Indiana, Illinois and Iowa Foundation for Fair Contracting

6170 Joliet Road, Suite 200

Countryside, IL 60525

Cell: (708) 341-0111

dparker@iiiffc.org

Mission: We power Iowa's possibilities by connecting workers to opportunities and employers to workforce solutions.

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2 attachments

Manatts - Davenport - Silica Exposure.jpg
1674K

Manatts - Davenport - Silica Exposure - OSHA Complaint Form.pdf
993K