



United States Department of Agriculture

Food Safety and
Inspection Service

Office of Field
Operations

Springdale District

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December 10, 2020

Via Email: timwhisler1950@gmail.com
FedEx Tracking # 772328696907

Mr. Tim Whisler, Plant Manager
Warner Locker Inc., Est. M8703
340 Southeast Offut Rd.
Maysville, MO 64469

NOTICE OF SUSPENSION HELD IN ABEYANCE

Dear Mr. Whisler,

On December 7, 2020, the Food Safety and Inspection Service (FSIS) notified you of the suspension of the assignment of inspection personnel at your facility. This Notice of Suspension (NOS) was based on the Rules of Practice specified in Title 9 Code of Federal Regulations (CFR) 500.3(b) due to your establishment's failure to prevent inhumane handling and slaughtering of livestock at your facility as required by 9 CFR 313.16(a)(1) and 313.16(a)(3).

On December 7, 2020, you provided a written response (Action Plan) to the NOS via email, beginning a dialogue with FSIS that concluded with your final Action Plan submission on December 8, 2020. FSIS analyzed the corrective and preventive measures provided in your Action Plan and subsequent revisions and determined they represented compliance or the intent to comply with all applicable regulations. Therefore, FSIS will hold the suspension in abeyance pending verification by FSIS personnel that your Action Plan is effectively implemented. You were verbally notified of the suspension being held in abeyance on December 8, 2020, and this letter serves as formal, written notification of the same.

An abeyance is a moratorium on the effect of a suspension. Once a suspension is imposed, the Agency may put it into abeyance if the establishment undertakes corrective and preventive actions that the Agency finds will ensure that the conditions that were the basis for the suspension will be eliminated, and the Action Plan is effectively implemented. During the abeyance period, FSIS personnel will evaluate your corrective and preventive actions to ensure their effectiveness.

A copy of the FSIS Verification Plan is being shared with you to assist in understanding the nature and importance of the Agency's verification activities. This FSIS Verification Plan is designed to verify that your establishment fully implements the Action Plan identified in your proposal and subsequent clarifications, and that measures proffered are effective in assuring ongoing regulatory compliance. It identifies the regulatory noncompliance, your actions, and FSIS verification procedures.

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Please be advised that your failure to comply with statutory and regulatory requirements, to implement the corrective actions identified in the Action Plan, and/or failure to notify this office in writing of any changes to the Action Plan may result in us initiating further regulatory action as deemed necessary at the time. **During this period of abeyance, any changes made to the Action Plan need to be submitted to this office for review and comment prior to you putting the changes into place.** FSIS inspection program personnel will notify the Frontline Supervisor and District Office immediately when modifications are made to the Action Plan and your establishment fails to notify this office.

If you have any questions, please contact this office.

Sincerely,



for
Jeffery Barham
District Manager

cc: Ms. Geraldine French, EARO
Dr. Don Dowdle, DDM
Dr. Evan Sumner, DDM
Dr. Daran (Curtis) Stoyall, DDM

(b) (6)



FO/Quarterly Reports

FSIS Verification Plan

Warner Locker Inc., Est. M8703

	<i>Background that led to enforcement action (Bkgd)</i>
	<i>Related Regulations (Reg)</i>
	<i>Establishment Action Plan (AP)</i>
	<i>Related Establishment Records (Rec)</i>
	<i>FSIS Verification Activity (VA)</i>
	<i>Frequency of Verification Activity (Freq)</i>
	<i>Related PHIS Task (PHIS)</i>

		NR NEG3312123607N documents a failed stunning procedure from approximately 7:25 a.m. on 12/7/2020. The plant manager fired a .22 mag rifle to stun a steer; however, the animal remained standing and holding its head upright. The plant manager attempted two more times with the same firearm; however, the animal continued to remain standing after each attempt. Another employee fired a fourth shot with the same firearm, rendering the animal immediately unconscious. IPP took an RCA by tagging the knock box with U.S. Reject Tag B-45064078.
	<i>Bkgd</i>	
	<i>Reg</i>	9 CFR 313.16(a)(1) and 313.16(a)(3)
VP1	<i>AP</i>	The "Observations on Stunning Placement in Cattle" training material will be used and read by all employees performing stunning. Training will occur once prior to inspected slaughter resuming and documented on the humane handling record with signature of each employee.
	<i>Rec</i>	Humane Handling Record
	<i>VA</i>	Verify that appropriate employees were trained by reviewing the training record and, if possible, observing the training.
	<i>Freq</i>	Once prior to resuming slaughter
	<i>PHIS</i>	Livestock Humane Handling
	<i>Bkgd</i>	NR NEG3312123607N documents a failed stunning procedure from approximately 7:25 a.m. on 12/7/2020. The plant manager fired a .22 mag rifle to stun a steer; however, the animal remained standing and holding its head upright. The plant manager attempted two more times with the same firearm; however, the animal continued to remain standing after each attempt. Another employee fired a fourth shot with the same firearm, rendering the animal immediately unconscious. IPP took an RCA by tagging the knock box with U.S. Reject Tag B-45064078.
	<i>Reg</i>	9 CFR 313.16(a)(1) and 313.16(a)(3)
VP2	<i>AP</i>	The plant will use the .22 mag rifle as the primary weapon for knocking and will use a .410 shotgun with 4 shot as the backup going forward. The plant has an SOP in place stating if the .22 mag fails for any reason on the first shot the .410 shotgun with 4 shot will be used on the second attempt.
	<i>Rec</i>	
	<i>VA</i>	Observe that the .22 mag rifle is used as the primary weapon and that the .410 shotgun is readily available and loaded as the back-up weapon.
	<i>Freq</i>	Once per slaughter day
	<i>PHIS</i>	Livestock Humane Handling

	<i>Bkgd</i>	NR NEG3312123607N documents a failed stunning procedure from approximately 7:25 a.m. on 12/7/2020. The plant manager fired a .22 mag rifle to stun a steer; however, the animal remained standing and holding its head upright. The plant manager attempted two more times with the same firearm; however, the animal continued to remain standing after each attempt. Another employee fired a fourth shot with the same firearm, rendering the animal immediately unconscious. IPP took an RCA by tagging the knock box with U.S. Reject Tag B-45064078.
	<i>Reg</i>	9 CFR 313.16(a)(1) and 313.16(a)(3)
VP3	<i>AP</i>	Practice firing will be conducted on each inspected kill day (Monday) prior to slaughter for the duration of the abeyance (12 weeks). The target will be presented to CSI for observation prior to slaughter start-up. Practice will consist of 10 rounds fired 3 feet from the tarket to simulate the approximate distance of an animal in the knock box when using the rifle.
	<i>Rec</i>	Target
	<i>VA</i>	Review target to verify that shooting practice has been conducted and demonstrates effective use of the weapon.
	<i>Freq</i>	Once per slaughter day
	<i>PHIS</i>	Livestock Humane Handling
	<i>Bkgd</i>	NR NEG3312123607N documents a failed stunning procedure from approximately 7:25 a.m. on 12/7/2020. The plant manager fired a .22 mag rifle to stun a steer; however, the animal remained standing and holding its head upright. The plant manager attempted two more times with the same firearm; however, the animal continued to remain standing after each attempt. Another employee fired a fourth shot with the same firearm, rendering the animal immediately unconscious. IPP took an RCA by tagging the knock box with U.S. Reject Tag B-45064078.
	<i>Reg</i>	9 CFR 313.16(a)(1) and 313.16(a)(3)
VP4	<i>AP</i>	To monitor stunning effectiveness, the current owner (Tim Whisler), or -- after ownership transfer on 1/1/2021 - (b) (6) will check for fixed eyes, no vocalization, limp tongue, no righting reflex, no rhythmic breathing. This will be documented on the humane handling record of our robust program with check mark to indicate acceptable. The plant will skin and split one skull on each inspected slaughter day (i.e. Mondays) for 12 weeks (duration of the abeyance). This will be documented on the establishment humane handling form.
	<i>Rec</i>	Robust Humane Handling Form
	<i>VA</i>	Observe the monitoring of stunning effectiveness and review the associated records.
	<i>Freq</i>	Once per slaughter day
	<i>PHIS</i>	Livestock Humane Handling