



January 23, 2025

Steve Hammer, Plant Manager
Elkton Locker and Grocery, Inc.
Establishment M34384
127 Elk Street
Elkton, South Dakota 57026
sdhammer@itctel.com
605-542-2291

ELECTRONIC MAIL on January 23, 2025

Attention: Steve Hammer, Plant Manager

NOTICE OF SUSPENSION

This letter serves as official notification by the Food Safety and Inspection Service (FSIS) of our decision to withhold the federal marks of inspection and suspend the assignment of Inspection Program Personnel (IPP) at Elkton Locker and Grocery, Inc., Est. M34384, located at 127 Elk Street, Elkton, South Dakota. This letter follows verbal notification of the suspension action, provided by (b) (6), DVMS, to Steve Hammer, Plant Manager at approximately 2:15pm on January 23, 2025. This action includes your Slaughter Hazard Analysis Critical Control Point (HACCP) processes employed at your establishment.

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

Background/Authority

The Federal Meat Inspection Act (FMIA) (Title 21 of the United States Code {21 U.S.C.} 603 *et seq.*) provides that for the purpose of preventing the inhumane slaughtering of livestock, the secretary shall cause to be made, by inspectors appointed for that purpose, an examination and inspection of the methods by which amenable species cattle, sheep, swine, goats, horses, mules, or other equines are slaughtered and handled in connection with slaughter in the slaughtering establishments inspected under this Act. The Secretary may refuse to provide inspection to a new slaughtering establishment or may cause inspection to be temporarily suspended at a slaughtering establishment if the Secretary finds that any cattle, sheep, swine, goats, horses, mules, or other equines have been slaughtered or handled in connection with slaughter at such establishment by any method not in accordance with the Humane Methods of Slaughter Act (HMSA) (72 Statute, 862; Title 7 U.S.C. 1901 to 1906) until the establishment furnishes assurances satisfactory to the Secretary that all slaughtering and handling in connection with slaughter of livestock shall be in accordance with such methods.

The HMSA provides that Congress finds that the use of humane methods in the slaughter of livestock prevents needless suffering; results in safer and better working conditions for persons engaged in the slaughtering industry; brings about improvement of products and economies in slaughtering operations; and produces other benefits for producers, processors, and consumers which tend to expedite an orderly flow of livestock and livestock products in interstate and foreign commerce. It is therefore declared to be the policy of the United States that the slaughtering of livestock and the handling of livestock in connection with slaughter shall be carried out only by humane methods.

Under the authority of the Acts, FSIS has prescribed rules and regulations required for establishments slaughtering and handling livestock, as required by 9 CFR Part 313. FSIS has also developed the Rules of Practice regarding administrative enforcement, 9 CFR Part 500. The Rules of Practice describe the types of enforcement actions that FSIS may take and include procedures for taking a withholding action and/or suspension, with or without prior notification, and for filing a complaint to withdraw a grant of inspection. Specifically, 9 CFR 500.3(b) states that FSIS may impose a suspension without providing prior notification due to handling or slaughtering of animals inhumanely.

Findings/Basis for Action

On Thursday January 23rd, 2025, at approximately 11:55am IPP observed the following noncompliance while performing a HATS Category VIII for Stunning Effectiveness task:

The restraining cage is approximately 8 feet in length by 4 feet wide and located longways on the middle end of the slaughter floor. An over 30 months beef was in place to be stunned with a .22 caliber magnum rifle. While IPP waited outside the slaughter floor for safety purposes, the first stun was applied.

After the first stun was applied, IPP observed that the animal was conscious and still standing. The animal was also observed inhaling and exhaling, creating vapor from the nose due to the cold temperature on the slaughter floor. IPP observed that the stunner was preparing for a second stun, and IPP again stepped outside the slaughter floor.

After the second stun was applied with the same rifle, IPP observed the animal was conscious and standing. IPP saw the animal blink once. The employee quickly prepared to and performed a third stun with the same firearm. IPP returned to the slaughter floor and moved closer to the stunning area and observed the animal standing and breathing, with controlled quick head and eye movement. IPP returned outside the slaughter floor as the stunner prepared to perform a fourth stun with the same firearm.

After the fourth stun was performed the animal was confirmed to be unconscious. The animal had dropped, no eye movement was observed, and the head and body remained limp.

Upon further investigation of the head, IPP used a pencil the size of the opening to track the four openings left by the bullets. One stun was applied approximately one and a half inches below the center of the head. This opening does not seem to have perforated through the brain due to the pencil not being able to go through. Another opening one inch from the center appeared to be angled and perforated the upper mouth cavity. The remaining two openings were adjacent to each other, 2 inches

from the center had two trajectories with different angles, one to the brain and one to the top of the mouth cavity.

IPP took regulatory control action by placing a US Rejected tag on the restrainer. This was the last animal to be slaughtered for the day. IPP attempted to contact the owner of the establishment, Mr. Steve Hammer, but he was not available at the time of the findings. IPP also contacted the Frontline Supervisor for further guidance. FLS (b) (6) contacted Mr. Hammer to inform him of the noncompliance and the regulatory control action that was taken in response.

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

When an establishment maintains a robust humane handling program, FSIS can exercise regulatory discretion when an inhumane handling or slaughter incident is observed. You do not currently maintain a written humane handling program for consideration.

Summary and Conclusion

Provisions of the FMIA outline FSIS' ability to refuse to render inspection and indefinitely withdraw inspection from an establishment, provided the establishment is afforded the right to an administrative hearing, when conditions exist where the slaughter and/or handling of livestock was not by a method in accordance with the Act(s). Evidence demonstrates your failure to meet regulatory requirements addressed in 9 CFR 313.16(a), constituting a violation of the humane slaughter requirements, and supporting the conclusion that your handling of livestock violated the provisions of the FMIA and HMSA.

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

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

A determination of further administrative action will be made upon receipt and review of your submitted corrective actions and preventative measures. You are reminded that, as an operator of a federally inspected establishment, you are expected to comply with FSIS regulations and take appropriate actions to prevent the inhumane handling and slaughter of livestock at your

Steve Hammer, Plant Manager
Elkton Locker and Grocery LLC, EST. 34384

Notice of Suspension
January 23, 2025

establishment. Please be advised that your failure to respond adequately to these issues may result in our initiating action to withdraw inspection from your establishment.

Appeal and Hearing Rights

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

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

Pursuant to 9 CFR 500.5(d), you may also request a hearing regarding this determination. Should you request a hearing, FSIS will file a complaint that will include a request for an expedited hearing. If you wish to request a hearing regarding this determination, please contact:

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

If you have any questions, please contact the Des Moines District Office via telephone at 515-727-8960 or via electronic mail at fo/do25/desmoinesdistrictmanagementteam@usda.gov.

Sincerely,

JEFFERY
JACOBSEN
Digitally signed by
JEFFERY JACOBSEN
Date: 2025.01.23
15:11:24 -06'00'

Jeffery Jacobsen
District Manager