



United States Department of Agriculture

Food Safety and  
Inspection  
Service

July 20, 2023

Office of Field  
Operations  
Des Moines  
District Office

Electronic Mail on July 20, 2023

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

Pelkins Smokey Meat Market  
Dennis Pelkin, Owner  
Establishment M1499  
600 South US Highway 141  
Crivitz, Wisconsin 54114

Voice  
515.727.8960  
Fax 515.727.8991

## NOTICE OF SUSPENSION

Attention: Dennis Pelkin, Owner

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) for slaughter operations at Pelkins Smokey Meat Market, EST. M1499, located at 600 South US Highway 141, Crivitz, Wisconsin 54114. This letter follows verbal notification of the suspension action, provided by (b) (6), FLS, to Dennis Pelkin, Owner, on July 20, 2023.

This action is taken in accordance with the Rules of Practice regulation 9 Part Code of Federal Regulations (CFR) Part 500.3(b) due to an egregious inhumane handling incident that occurred at your establishment on July 20, 2023. 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 July 20, 2023, at approximately 1045 hours, IPP was inspecting a carcass roughly 10 feet from the restrainer on the slaughter floor and observed a noncompliance with humane handling, HATS Category VIII, Stunning. While inspecting I heard a hand-held captive bolt stunner (HHCB) discharge. I immediately looked over and saw a heifer under the head restraint trying to escape the front of the restrainer, conscious and standing, vocalizing, and moving her head. Immediately, the establishment employee reloaded the same HHCB and applied a second stun. After the second stun application the animal remained conscious, standing and vocalizing. Then the lead slaughter supervisor applied a third stun to the animal with the same HHCB. The third stun application rendered the animal insensible. IPP immediately took regulatory action and applied USDA reject tag #B37471271 to the restrainer and called the FLS for further guidance. IPP also notified slaughter supervisor (b) (6) that a noncompliance will be documented.

On postmortem inspection, I observed two stun wounds that were between the eyes on midline and one stun wound that was two inches above the lower two. The establishment is in violation of 9 CFR 313.15(a)(1) and 313.15(b)(1)(iii).

### **Summary and Conclusion**

The observations detailed above indicate an egregious violation of the humane handling requirements specified within the provisions of 21 U.S.C. 603, Section 3(b) of the FMIA, and Title 7 U.S.C. 1901 and 1902 of the HMSA of 1978, and the regulatory requirements outlined in 9 CFR Part 313.

Dennis Pelkin, Owner  
Pelkins Smokey Meat Market, Est. M1499

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The establishment does not have a humane handling program that meets the four criteria as described in the Federal Register Notice of September 9, 2004. Based on the above findings, the Des Moines District Office has determined to suspend the assignment of inspectors for your slaughter operations, as per the Rules of Practice regulation 9 CFR Part 500.3(b).

The suspension of the assignment of inspectors will remain in effect until such time as you provide to this office adequate written corrective actions and preventive measures to assure that the handling and/or slaughter of animals will be done humanely and in accordance with the FMIA, HMSA, and the regulations promulgated therein.

You may provide this office written corrective actions and preventive measures concerning the NOS and we will determine further action, if any, based upon your response. If you choose to address this issue, your written response should include:

1. An initial assessment of the incident, including determination of the cause.
2. Immediate corrective actions taken.
3. Preventive measures to prevent reoccurrence.
4. Any training of employees and materials used.
5. Type of monitoring activity for stunning, along with a documentation record.

You are reminded that as an operator of a federally inspected establishment, you are expected to comply with FSIS regulations, regarding the humane handling and slaughter of livestock. Please be advised that you have the right to appeal this matter. If you wish to appeal, you should contact:

Attention: Sherri N. Johnson  
Acting Executive Associate for Regulatory Operations  
Office of Field Operations  
Food Safety and Inspection Service  
United States Department of Agriculture  
1400 Independence Avenue, SW  
South Building, Room 1330A  
Washington, DC 20250  
Office number: 202-379-6196  
[sherri.johnson@usda.gov](mailto:sherri.johnson@usda.gov)

In addition, you may also request a hearing regarding this determination pursuant to FSIS Rules of Practice, regulation 9 CFR Part 500. The Rules of Practice were published in the Federal Register, Vol. 64, No. 228, on November 29, 1999. As specified in Section 500.5(d), should you request a hearing, FSIS will file a complaint that will include a request for an expedited hearing.

If you wish to request a hearing regarding this determination, you should contact:

Attention: Scott C. Safian, Director  
Enforcement Operations Staff  
Office of Investigation, Enforcement and Audit

Dennis Pelkin, Owner  
Pelkins Smokey Meat Market, Est. M1499

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Food Safety and Inspection Service  
United States Department of Agriculture  
Stop Code 3753, PP3, Cubicle 9-235-A  
1400 Independence Avenue, SW  
Washington, DC 20250  
Phone number: 202-418-8872  
Fax number: 202-245-5097

We urge your cooperation and voluntary compliance. If you have questions regarding this matter, please feel free to contact the Des Moines District Office at 515-727-8960, (b) (6), District Veterinary Medical Specialist (DVMS), at (b) (6) or (b) (6), DVMS, at (b) (6)

Sincerely,

**MARK**  
**JOHNSON**  
Digitally signed by  
MARK JOHNSON  
Date: 2023.07.20  
18:36:17 -05'00' (for)

Dawn Sprouls, DVM  
District Manager  
USDA FSIS OFO  
Des Moines District