



United States Department of Agriculture

Food Safety and  
Inspection Service

**Certified mail**

Office of Field  
Operations

June 27, 2023

Atlanta District Office

Modern Heritage Wholesome Foods, LLC

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Suite 3R90

M47877  
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Atlanta, GA. 30303

Ocala, FL 34479

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### **NOTICE OF SUSPENSION HELD IN ABEYANCE**

Dear Mr. Robert Hernandez:

On June 21, 2023, the Food Safety, and Inspection Service (FSIS) issued a Notice of Suspension (NOS) withholding the marks of inspection and suspending the assignment of slaughter inspection program personnel for livestock slaughter at Modern Heritage Wholesome Foods, LLC., Est. M47877 located at 2110 NE 6<sup>th</sup> Street, Ocala, FL 34479. This action was based on your establishment's failure to handle livestock humanely according to 9 CFR Part 313.

On June 23, 2023, you submitted written corrective actions and preventive measures to meet the requirements of the Humane Methods of Slaughter Act. Based on your assessment, you determined that Modern Heritage Wholesome Foods did not properly evaluate and did not use a stunning instrument of adequate size needed to properly stun a 1900lb. bull. Your corrective actions and preventive measures included: comprehensive retraining of all employees involved in the stunning process to reinforce the correct techniques for using the captive bolt guns, including proper gun placement, shot accuracy and ensuring the immediate insensibility of the animal (training is scheduled to be completed on 6/26/23); thorough inspection, maintenance and testing of the captive bolt guns and backup guns used in the stunning process to identify any malfunctioning or damaged parts; reviewing and revising your Sanitary Operating Procedures (SOPs) to ensure they are accurate, up to date and aligned with USDA guidelines; conducting daily maintenance (inspections, cleaning & recordkeeping) of captive bolt guns and backup guns to ensure they are functioning properly; you acquired additional backup captive bolt guns, you have a .22 WMR rifle and have added a .35 caliber rifle for stunning larger animals; and you will conduct regular interval audits to assess the adherence to

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proper stunning procedures, equipment functionality, and employee compliance with SOPs.

On June 26, 2023, FSIS determined that the proffered corrective actions and preventive measures submitted were not adequate to properly address the inhumane handling incident and further clarification was requested. Specifically, FSIS requested: clarification regarding when you are referring to a captive bolt stunner vs. a firearm (rifle); what you determined when you evaluated your stunning equipment. Did you determine that the equipment was working properly or did the equipment need repaired? If the equipment was repaired, please provide a copy of the record documenting what was repaired; provide a copy of any documents or links to any videos used to retrain your employees regarding correct techniques for using the captive bolt stunner & firearms, including but not limited to shot placement, shot accuracy and ensuring immediate insensibility of the animal; provide a copy of the record, with employee signatures, used to document retraining of employees; what you are referring to when you state you are “ensuring immediate insensibility of the animal.”

Additionally, to explain what you are evaluating to determine that the animal is unconsciousness; what is being monitored during your “Internal Audits” regarding stunning procedures, equipment functionality and employee compliance with the newly established SOPs? At what frequency will these procedures be performed? Provide a copy of the record(s) that will be used to document monitoring of your “Internal Audits”; will a security stun be administered only to animals stunned with the 9mm captive-bolt stunner or will animals stunned with the .22 WMR rifle and .35 caliber rifle also receive a security stun? Provide a copy of the record that will be used to document this; on your “Daily Gun Maintenance Log,” clarify which equipment, captive bolt stunner or firearm (rifle) is being maintained; and what is your criteria for determining which stunning device (captive bolt stunner, .22WMR or .35 caliber rifle) will be used when stunning cattle?

On June 26, 2023, you submitted your second response to provide clarification to your proffered corrective actions. Your response included: clarified verbiage regarding the use of a captive bolt stunner and rifle; you determined that the stunning equipment functioned properly; copies of the training materials and links to online training material use to retrain establishment employees (training will be completed on June 27, 2023); a copy of the record that will be used to document retraining establishment personnel; stunning effectiveness (insensibility of the bovine) will be confirmed based on: no righting reflex, no vocalization, and no tracking eye movement; management will perform and document weekly audits of new procedures and monitoring logs to assess adherence to proper stunning procedures, equipment functionality and employees compliance with newly established SOPs; a copy of the record that will be used to monitor stunning effectiveness; a security stun will be applied at the discretion of the stunner; the “Daily

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Stunning Device Maintenance Log” was modified to include identification of the device (captive bolt stunner or rifle) being maintained; use of the captive bolt stunner or the .22 WMR rifle, on cattle less than 1800lbs., will be based on the stunner's evaluation of the animal and determination of which device is appropriate; and the .35 caliber rifle will be used to stun animals larger than 1800lbs.

On June 27, 2023, FSIS determined that your second response of proffered corrective actions and preventive measures submitted was not adequate to properly address the inhumane handling incident and further clarification was requested. Specifically, FSIS requested you to: clarify the frequency for monitoring and documenting stunning effectiveness of cattle; and provide a signed record documenting employee retraining regarding proper stunning techniques.

On June 27, 2023, you submitted your third response to provide clarification to your proffered corrective actions. Your response included: stunning effectiveness will be monitored and documented on 100% of the cattle slaughtered; and you provided a signed record documenting employee retraining for stunning effectiveness.

On June 27, 2023, you were verbally notified by FSIS that the corrective actions and preventive measures met the requirements to place Modern Heritage Wholesome Foods, Est. M47877, in Abeyance and that a Notice of Suspension Held in Abeyance (NOSHA) and Verification Plan (VP) would be issued. You are hereby being provided written notification of the Notice of Suspension Held in Abeyance.

Please be further advised that the suspension of inspection at your establishment will remain in abeyance pending verification by FSIS that your proposed corrective actions and preventive measures have been implemented and are effective in ensuring future regulatory compliance and preventing the inhumane treatment of animals. Agency personnel will begin immediate verification of your corrective actions and preventive measures.

A copy of the FSIS Verification Plan is attached to assist you in understanding the nature and importance of the agency's verification activities. The FSIS Verification Plan is designed to verify that your establishment fully implements the revisions to its humane handling of animals and other corrective actions stated in your responses, and that these revisions and corrective actions are effective in ensuring future regulatory compliance. The FSIS Verification Plan identifies your proposed corrective actions, the regulatory requirement(s), and the PHIS Task under which FSIS officials will verify the implementation and effectiveness of your proposed action plan.

Please be reminded that as a federally inspected establishment, you are expected to comply with FSIS regulations and to take appropriate actions to prevent the inhumane handling of animals. It is important for you to understand that FSIS has the

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responsibility to initiate action if your establishment fails to operate in accordance with the regulations, or conditions occur that do not comply with the Humane Methods of Slaughter Act. Please be advised that failure to comply with these regulatory requirements or failure to effectively implement your proposed corrective actions and preventive measures could result in the immediate suspension of inspection at your establishment or other appropriate action.

If you have any questions, please contact the Atlanta District Office at 404-562-5900.

Sincerely,

PHYLLIS Digitally signed  
by PHYLLIS  
ADAMS  
ADAMS Date: 2023.06.28  
12:55:43 -04'00'

Dr. Phyllis Adams  
District Manager

cc: Melissa Moore, EARO  
Phyllis Adams, DM  
(b) (6) Humane Handling Enforcement Coordinator  
Scott Ehle, Acting OIEA Regional Director  
Edward Hepburn, DDM  
Barney Welch, DDM  
Tracy Bryant, DDM  
(b) (6) SEIAO  
(b) (6) DCS  
(b) (6) DVMS  
(b) (6) FLS  
(b) (6) SPHV at M47877  
FO/Quarterly Reports

**Establishment Name: Modern Heritage Wholesome Foods, LLC June 27, 2023**

**Establishment Number: 47877M**

**Week ending: \_\_\_\_\_**

On June 21, 2023, the Food Safety, and Inspection Service (FSIS) issued a Notice of Suspension (NOS) withholding the marks of inspection and suspending the assignment of slaughter inspection program personnel for livestock slaughter at Modern Heritage Wholesome Foods, LLC, Est. 47877M located at 2110 NE 63<sup>rd</sup> Street, Ocala, FL 34479. This action was based on your establishment's failure to handle livestock humanely according to 9 CFR Part 313. This Food Safety and Inspection Service (FSIS) Verification Plan is designed to verify that the establishment fully implements the corrective actions and preventive measures proffered in response to the Notice of Suspension (NOS) issued on June 21, 2023. Inspection personnel and the Atlanta District Office will utilize the Verification Plan to evaluate the effectiveness of the corrective actions in assuring future regulatory compliance. This FSIS Verification Plan identifies the corrective actions, the relevant regulatory requirements, and the PHIS Task under which FSIS officials will verify the implementation and effectiveness of the proposed action plan. The verification plan has the following tasks.

**Humane Handling and Slaughter Verification**

**"Results of Verification" should be recorded as acceptable or unacceptable. Under the heading "Inspection Actions", please document corrective actions taken in compliance with 9 CFR 313. Please explain all unacceptable findings in the "Inspection Actions" column.**

<b>Items to Verify</b>	<b>Results of Verification Acceptable (A) or Unacceptable (U)</b>	<b>Inspection Actions List actions taken if Unacceptable.</b>
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<b><u>Livestock Humane Handling Verification</u> Task</b>  <b>9 CFR 313</b>  A) Verify by record review all employees stunning cattle have		
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<p>been re-trained in the stunning process to reinforce the correct techniques for using the captive bolt guns, including proper gun placement, shot accuracy and ensuring the immediate insensibility of the animal. Verify records once.</p> <p>B) Verify by record review that captive bolt stunners and firearms are cleaned and inspected daily to ensure their optimum functionality. Verify records each day of slaughter.</p> <p>C) Verify by record review that the establishment monitors and records monitoring of stunning effectiveness on 100% of the cattle slaughtered. The document will include the date, time, tag#, stunning device used, no righting response, no vocalization, no tracking eye movement, if a security stun was applied, the person doing the stunning and the stunners initials. Verify records each day of slaughter.</p> <p>D) Verify by record review that plant management conducts and documents weekly verification of stunning effectiveness. Verify records weekly.</p> <p>E) Verify by record review that plant management performs and documents a weekly verification of the "Daily Stunning Device Maintenance Log". Verify records weekly.</p>		
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**COMMENTS AND RECOMENDATIONS**

**Two Week Period Ending:** \_\_\_\_\_

**IIC Comments:**

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\_\_\_\_\_

**Continue Verification Process:** \_\_\_\_\_

**Suspension or Reinstatement of Suspension:** \_\_\_\_\_

**No Further Action / Close with a Letter of Warning:** \_\_\_\_\_

**IIC Signature** \_\_\_\_\_