



SENT VIA FEDEX &  
ELECTRONIC MAIL

July 24, 2018

(b) (6)

Masami Foods, Inc.  
Establishment M6173  
5222 Tingley Lane  
Klamath Falls, OR 97603

(b) (6)

### REINSTATEMENT OF SUSPENSION

Dear (b) (6)

This letter confirms the verbal notification provided to your establishment, Masami Foods, Inc., Establishment M6173, located in Klamath Falls, OR on Tuesday, July 24, 2018, by the Food Safety Inspection Service (FSIS), Denver District, of the reinstatement of suspension of the assignment of inspectors and the withholding of the marks of inspection at your establishment for slaughter operations. This action was initiated in accordance with Title 21 of the United States Code (USC), Section 603(b) and Title 9 of the Code of Federal Regulations (CFR) Part 500.3(b) (Rules of Practice).

#### Background Authority

The *Federal Meat Inspection Act* (FMIA), 21 USC Section 603(b), provides for the purpose of preventing the inhumane slaughtering of livestock. The FMIA gives FSIS the authority, as designated by the Secretary of the Department of Agriculture, to prescribe rules and regulations describing examinations and inspections of the method by which cattle, sheep, swine, goats, horses, mules, and other equines are slaughtered in the establishments inspected under the FMIA. The FMIA also provides FSIS Program personnel the authority to suspend operations at a slaughtering establishment if FSIS finds that any cattle, sheep, swine, goats, horses, mules or other equines have been slaughtered or handled in connection with slaughter at such establishments by any method not in accordance with the *Humane Methods of Slaughter Act* (HMSA) of August 27, 1958 (72 Statute 862; Title 7 USC, Sections 1901-1906), until the establishment furnishes FSIS with satisfactory assurances that all slaughtering and handling in connection with the slaughter of livestock shall be in accordance with such methods.

Under the authorities of these Acts, FSIS has prescribed rules and regulations required for the humane slaughtering of livestock, contained in Title 9 CFR Part 313. FSIS has also developed Rules of Practice regarding enforcement prescribed in 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, as well as the procedures for filing a complaint to withdraw a Grant of Federal Inspection.

### Findings/Basis for Action

On Tuesday, July 24, 2018, the FSIS Food Inspector (FI) documented in a Memorandum of Information (MOI) the following event at Est. M6173:

*On July 24, 2018, at approximately 11:34 am, I, (b) (6) observed the following event while performing humane handling observations for consciousness on the rail:*

*I saw a market hog stiffening on the rail. Upon further observation, the hog began to try and regain its upright position. This was not side to side thrashing; it was purposefully lifting its head in line with the back trying to right itself. The front legs were stiff and lifting as well, not thrashing uncontrollably. When I looked below at the hog's head, the eyes were focused (were not fixed and dull), actively looking at the employee next to it, bright and attentive, and the pig began gasping for breath.*

*I stated to the employee at (b) (6) "We have a conscious pig on the rail and needs to be knocked immediately". The employee then got down from his station to perform the knock. As the employee was getting down from the head station the (b) (6) (b) (6) urgently instructed the employee to get the ladder and climb up to knock the hog. The captive bolt did not fire on the first two attempts (bolt did not fire after the employee re-cocked the captive bolt both times), employee did not attempt to reload the captive bolt gun, and the third attempt (bolt fired correctly) resulted in the hog's body dropping to a state of total flaccidity and unconsciousness, with eyes fixed. I then informed (b) (6) of the incident and he told me to place a reject tag # B32115813 on the stunning conveyer.*

*Note: The line speed was slowed from the regular 80-90 head per hour to about 50 to 60 head per hour. 5-7 regular employees were missing with less experienced employees filling in.*

*Last ROS was February 6, 2018*

### Summary

The decision to reinstate the suspension of the assignment of inspectors at your establishment is based on this noncompliance with 9 CFR 313.30 (a)(4). This is an egregious inhumane noncompliance; an egregious noncompliance is any act or condition that results in severe harm to the animal, such as allowing an animal to regain consciousness on the rail. In addition, your firm was operating under an abeyance period for a Reinstatement of Suspension (ROS) that was issued for an egregious inhumane event that occurred at your establishment on February 6, 2018.

The reinstatement of suspension of the assignment of inspectors will remain in effect until such time as you provide the Denver District Office adequate written corrective actions and preventative measures to ensure that livestock at your establishment are handled and slaughtered humanely, and in accordance with the FMIA, the HMSA, and 9 CFR 313 regulations.

These should include:

- A written description of the incident.
- The root cause of the incident.
- Your specific proposed corrective actions and preventative measures addressing the cause of the incident.

In accordance with Title 9 CFR 500.5(a)(5), you may appeal this action by contacting:

Dr. Keith Gilmore  
Executive Associate for Regulatory Operations  
USDA/FSIS/OFO  
210 Walnut St  
Room 985, Federal Building  
Des Moines, IA 50309  
Tel: 515-727-8970  
[Keith.Gilmore@fsis.usda.gov](mailto:Keith.Gilmore@fsis.usda.gov)

In accordance with 9 CFR Part 500.5 (d), you may request a hearing concerning this action by contacting:

Scott C. Safian, Director  
Food Safety and Inspection Service  
Office of Investigation, Enforcement and Audit  
Enforcement and Litigation Division  
Stop Code 3753, PP3, Cubicle 8-235A  
1400 Independence Avenue, SW  
Washington, D.C. 20250  
Voice: (202) 418-8872  
Fax: (202) 245-5097

If you have any questions regarding this matter, you may contact the Denver District Office at (303) 236-9800.

Sincerely,

ROBERT  
REEDER

Digitally signed by  
ROBERT REEDER  
Date: 2018.07.24  
15:22:18 -06'00'

FOR

Dr. Yudhbir Sharma  
District Manager (acting)  
FSIS Denver District Office

[Yudhbir.Sharma@fsis.usda.gov](mailto:Yudhbir.Sharma@fsis.usda.gov)

cc: FO/QER  
Reader File  
Est. File  
M. Esteras, DDM  
R. Reeder, DDM  
R. Atkinson, DDM

(b) (6)

A. Khroustalev, RD/OIEA

(b) (6)