



September 17, 2023  
Delivered via Electronic Mail

Swift Beef Company  
Establishment M969G  
555 S. Stuhr Rd.  
Grand Island, Nebraska  
[phillip.buck2@jbssa.com](mailto:phillip.buck2@jbssa.com)  
308-392-9732

Attention: Mr. Phillip Buck, 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 Swift Beef Company, M969G, located at 555 S. Stuhr Road, Grand Island, Nebraska. This letter follows verbal notification of the suspension action, provided by Ms. Jenifer Monteverde, Deputy District Manager, to (b) (6) Supervisor, at approximately 2320 MST on September 16, 2023/ 0020 CST on September 17, 2023. 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 FMIA (21 USC 601 *et seq.*) provides it is essential to the public interest that the health and welfare of consumers be protected, by assuring meat products distributed to them are wholesome, not adulterated, and properly marked, and labeled. The Act gives FSIS the authority, as designated by the Secretary of Agriculture, to prescribe rules and regulations describing sanitation requirements for inspected establishments and provide FSIS program personnel the authority to refuse to allow meat/meat food products to be marked, labeled, stamped, or tagged as *inspected and passed*, to prevent the entry of adulterated products into commerce. Furthermore, the FMIA provides FSIS the authority to appoint inspectors to examine and inspect the method by which livestock are slaughtered and handled at slaughtering establishments.

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**

#### HATS Category IX: Conscious Animals on the Rail

On Saturday, September 16, 2023, while performing a routine Livestock Humane Handling task, I, the SCSI observed the following noncompliance at approximately 2255 hours:

I was observing stunning hoisting and shackling next to the blood pit railing overlooking the carcass takeaway belt near the maintenance toolbox on the south side of the protective metal shield.

At approximately 2255 hours I observed a sensible animal being hoisted. I determined sensibility by the observation of a righting reflex, eye tracking, and blinking. When I saw the animal being hoisted off the takeaway belt, I saw blinking and the head raise. I followed the animal to the stack, prior to where the animals are stuck and bled out and observed eye tracking, a righting reflex, and blinking. The animal flexed its head in the dorsoventral plane. I halted production and informed the Superintendent of my observations. He brought the knocker to the stack. The knocker asked me which animal was sensible. I identified the conscious animal in the stack. I observed that the animal was still exhibiting eye tracking, blinking, and attempting to lift its head. The knocker applied a stun after which the animal was immediately rendered unconscious. He applied a second security stun. Both stuns were performed with a handheld captive bolt instrument. Per 9 CFR 313.15 (a)(3), immediately after the stunning blow is delivered the animal shall be in a state of complete unconsciousness and remain in this condition throughout shackling, sticking, and bleeding.

The SPHV was called to the floor by the establishment, at my request, and informed the establishment that the knocking box would remain tagged, and we would be contacting the Denver District Office immediately for further instruction. Regulatory control of the production line was released at approximately 2258 hours, and the establishment was informed that they could proceed with processing the cattle on the line. No further stunning was allowed. U.S. Reject tag B-45836026 was applied to the restrainer.

The SPHV went to the floor and located the head, which was tagged and saved at the head chain and examined it with the faceplate skinned to the bone. The SPHV was able to verify that there were 3 holes in the skull and no more. Two knock holes were penetrating. One knock hole indicates an area of the skull that was fractured/fragmented into 4-5 fragments, but was not penetrated. There was no distinct hole and the SPHV could not probe into it. The cracked skull was depressed less than ¼". This area was located approximately 1" dorsocaudal to the left eye and 1 – 1.5" laterally.

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. Your establishment 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 313.15(a)(3), 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 to take appropriate corrective actions to prevent the production of or adulterated products at your 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:

William Griffin  
Executive Associate for Regulatory Operations  
Office of Field Operations  
Food Safety and Inspection Service  
United States Department of Agriculture  
SB, Room 3164  
1400 Independence Avenue, SW  
Washington, DC 20250  
Email: [William.Griffin1@usda.gov](mailto:William.Griffin1@usda.gov)  
Phone: (202) 961-7156

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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: [AEBCorrespondence@usda.gov](mailto:AEBCorrespondence@usda.gov)

If you have any questions, you can contact the Denver District Office at (303) 236-9800, via electronic mail at [Denver.Districtmanagement@usda.gov](mailto:Denver.Districtmanagement@usda.gov), or by fax at (303) 236-9794.

Sincerely,

JENIFER MONTEVERDE Digitally signed by JENIFER  
MONTEVERDE  
Date: 2023.09.17 14:47:55  
-06'00'

Dr. Robert Reeder  
District Manager  
USDA FSIS OFO  
Denver District Office  
[Robert.Reeder@usda.gov](mailto:Robert.Reeder@usda.gov)

cc: W. Griffin, EARO  
R. Reeder, DM  
(b) (6) Humane Handling Enforcement Coordinator  
S. Smith, OIEA Regional Director  
J. VanHook, DDM  
D. James, DDM  
J. Monteverde, DDM  
(b) (6) SEIAO  
(b) (6) DVMS  
(b) (6) DVMS  
FLS  
(b) (6) SPHV  
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(b) (6) SCSi  
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FO/Quarterly Reports

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