



United States Department of Agriculture

Food Safety and
Inspection Service

Office of Field
Operations
Denver District Office

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June 27, 2020

**SENT VIA FEDEX &
ELECTRONIC MAIL**

Mr. Zach Ireland, Plant Manager
Swift Beef Company
Establishment M969G
555 S. Stuhr Rd.
Grand island, NE 68801

NOTICE OF INTENDED ENFORCEMENT (NOIE)

Mr. Ireland,

This letter serves as official notification by the Food Safety Inspection Service (FSIS) of its intent to withhold the marks of inspection and suspend the assignment of FSIS Inspection Program Personnel (IPP) at your establishment, Swift Beef Company, Establishment M969G, located in Grand Island, NE. The decision to issue this notification was made in accordance with 9 CFR 500.3(b) (Rules of Practice), based on your failure to meet regulatory requirements in regard to livestock humane slaughter at your establishment.

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.

Finding/Basis for Action

On Saturday June 27, 2020, the FSIS Supervisory Public Health Veterinarian (SPHV) documented in a Memorandum of Interview (MOI) the following event at Est. M969G:

“At approximately 1050 hours on June 27, 2020, after completing ante mortem inspection, the SPHV was informed that the establishment was going to euthanize a steer who was too stubborn to walk up the drive alley and into the restrainer. The animal was located in pen 25C (which can hold approximately 20 head of cattle). The SPHV stood on the catwalk above the pen to observe the establishment employee stun the steer. Every time an establishment employee lifted the hand-held captive bolt (HHCB) device, the steer would turn its head and walk away. At 1057 hours, the establishment applied the first stun attempt with the HHCB device. The SPHV observed the steer remain standing, turn and walked away. The SPHV observed blood on the right cranial aspect of the skull, which had not been observed prior to the stun attempt. The SPHV informed (b) (6), that the SPHV would be issuing a non-compliance. At this point, (b) (6) circled with the steer in the same pen looking for an opportunity to apply a second stun. After 5 minutes, the SPHV informed (b) (6) that he needed to find a better way to restrain the animal. (b) (6) then moved the animal to the alleyway and penned the steer between two gates and applied a second stun attempt which rendered the steer unconscious. The time elapsed between the first ineffective stun and the second stun that rendered the steer unconscious was 13 minutes. While (b) (6) was moving the steer, the SPHV called for the SCSI to tag the stun box. The SCSI placed USDA reject tag B38606404 at 1105 hours. The Denver District Office was contacted via supervisory channels.”

Prior to this incident, the establishment was determined to have a Robust Systematic Approach to humane handling.

Summary

This event is a noncompliance of regulatory requirements in Title 9 CFR 313.15(a)(1) *The captive bolt stunners shall be applied to the livestock in accordance with this section so as to produce immediate unconsciousness in the animals before they are shackled, hoisted, thrown, cast, or cut. The animals shall be stunned in such a manner that they will be rendered unconscious with a minimum of excitement and discomfort.*

The decision to issue a NOIE in lieu of a Notice of Suspension (NOS) is based on your

establishment implementing a robust systematic approach to humane handling and the details of the incident.

You are required to proffer the Denver District Office a written response of your analysis of the event, corrective actions and preventative measures within three working days from the receipt of this letter, no later than the close of business, July 1, 2020. Your response should include:

- A written description of the incident.
- The root cause of the incident.
- Your immediate corrective actions.
- Your specific corrective actions to prevent reoccurrence of the noncompliance.
- Any training or retraining of employees you plan to provide, including materials you're planning to use.
- Any monitoring procedures, including any documentation records.

Based on your response, FSIS will determine further action, if any, is necessary. In addition, failure to respond to this NOIE and failure to assure that you handle and slaughter animals at your establishment humanely, in accordance with the statutory and regulatory requirements, may result in further administrative enforcement actions.

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

Sincerely,

for **MICHAEL** Digitally signed by
HOFFMAN MICHAEL HOFFMAN
Date: 2020.06.27
12:16:44 -06'00'

Valerie Clay
District Manager
FSIS Denver District Office
Valerie.Clay@usda.gov

cc: FO/QER
Est. File
R. Reeder, DDM
S. Hoffman, DDM
J. VanHook, DDM

(b) (6)

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(b) (6)



S. Smith, RD/OIEA