

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 7  
11201 RENNER BOULEVARD  
LENEXA, KANSAS 66219

FILED

September 3, 2025

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U.S. EPA REGION 7  
HEARING CLERK

In the Matter of:

Swift Beef Company  
Grand Island, Nebraska

Respondent.

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**Docket No. CAA-07-2025-0209**

**Proceeding Pursuant to the Clean Air Act**

**42 U.S.C. § 7401 et seq.**

**NOTICE OF VIOLATION**

The United States Environmental Protection Agency (EPA) notifies Swift Beef Company (Respondent) that EPA finds its Grand Island, Nebraska, facility in violation of the Nebraska State Implementation Plan, as set forth below. This NOV is issued pursuant to Section 113(a)(1) of the CAA, 42 U.S.C. § 7413(a)(1).

**A. STATUTORY AND REGULATORY BACKGROUND**

1. The CAA establishes a regulatory framework designed to protect and enhance the quality of the nation's air so as to promote the public health and welfare and the productive capacity of its population. 42 U.S.C. § 7401.

2. Section 110 of the CAA, 42 U.S.C. § 7410, requires each state to adopt and submit to EPA for approval a plan that provides for the attainment and maintenance of the national ambient air quality standards in each air quality control region within each state. This plan is known as a State Implementation Plan (SIP).

3. Effective September 16, 2024, EPA approved revisions to chapter 3 of Title 129 of the Nebraska Administrative Code as part of the Nebraska SIP, which contains requirements for Nebraska's construction permit program. 89 *Fed. Reg.* 66609. The Nebraska SIP at 129 Neb. Admin. Code, ch. 3, § 001.03, provides, in relevant part, that no person will cause the construction, reconstruction, or modification of specified emission sources without a construction permit issued by the Department. The Nebraska SIP at 129 Neb. Admin. Code, ch. 3, § 003.01, further provides that construction permit noncompliance will constitute a violation of the CAA and is grounds for an enforcement action.

4. Effective September 16, 2024, EPA approved revisions to chapter 6 of Title 29 of the Nebraska Administrative Code as part of the Nebraska SIP, which contains requirements for Nebraska's class II (synthetic minor) permit program. 89 *Fed. Reg.* 66609. The Nebraska SIP at 129 Neb. Admin. Code, ch. 6, § 001.02, provides that any major source required to obtain a class I (Title V) permit based on potential emissions with actual emissions below major source levels may request that potential to emit be limited to below the major source threshold, and may apply for a class II permit, as a synthetic minor, which provides practically enforceable limits to potential emissions and contains recordkeeping/reporting requirements.

5. Failure to comply with any approved regulatory provision of a SIP, or with any permit limitation or condition contained within a permit issued under an EPA approved program that is incorporated into the SIP, shall render the person or governmental entity so failing to comply in violation of a requirement of an applicable implementation plan and subject to enforcement action under Section 113 of the Act. 40 C.F.R. § 52.23.

## **B. FACTUAL BACKGROUND**

6. Respondent is a “person” as defined by Section 302(e) of the CAA, 42 U.S.C. § 7602(e).

7. Respondent is the owner and operator of a beef slaughter and processing facility located at 555 South Stuhr Road, Grand Island, Nebraska (Facility). Respondent operates two lagoons for the treatment of wastewater at the Facility. These lagoons produce biogas. Biogas contains methane and hydrogen sulfide (H<sub>2</sub>S). Respondent controlled biogas emissions from the lagoons using a flare and iron sponge scrubbers until February 23, 2024, when the scrubbers became inoperable due to a fire. Respondent currently uses only the flare to control biogas emissions.

8. The Facility is a “stationary source” as defined by Section 302(z) of the Clean Air Act, 42 U.S.C. § 7602(z).

9. The Nebraska Department of Environment and Energy (NDEE) issued to Respondent construction permit no. CP19-017 (November 2019), which contained operating and recordkeeping/reporting requirements for the Facility’s wastewater treatment system. NDEE then issued to Respondent construction permit CP21-051 (June 2022), which superseded permit no. CP19-017 and revised Facility-wide fuel limitations; however, all other requirements remained the same as CP19-017.

10. NDEE issued to Respondent class II operating permit no. OP18R2-003 (November 2018).<sup>1</sup> Part II(C) of the operating permit states that any permit noncompliance shall constitute a violation of the CAA and is grounds for enforcement action.

11. On March 25-26, 2025, EPA conducted an inspection of the Facility. Based on the inspection and resulting investigation, EPA has determined that Respondent’s failures to properly operate the Facility’s wastewater treatment system as described below resulted in excess emissions of H<sub>2</sub>S and sulfur dioxide (SO<sub>2</sub>).

## **C. VIOLATIONS**

12. Respondent violated the permits for the Facility and Nebraska SIP in the following ways:

- a. From July 2023 to present, failure to meet the H<sub>2</sub>S limit of 5,000 parts per million by volume, dry (ppmvd) at the inlet of the scrubbers, in violation of condition III(C)(2)(b) of CP21-051. The H<sub>2</sub>S concentrations during the July 2023 and January 2024 performance test were 6,419 ppmvd and 8,593 ppmvd, respectively.

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<sup>1</sup> OP18R2-003 was superseded by a new class II operating permit issued by NDEE in November 2023; however, EPA is providing this notice only for violations of OP18R2-003.

- b. Until the scrubber fire in February 2024, failure to properly operate and maintain the scrubbers, in violation of condition I(H) of CP21-051. Respondent failed to regularly replace scrubber media before it became exhausted and could no longer effectively control emissions.
- c. Several serious incidents in 2024 resulted in the failure to route biogas to the flare or scrubbers to control emissions, in violation of condition III(C)(1) of CP21-051. Specifically, in January 2024 the north lagoon collapsed, then in February 2024 the scrubbers caught fire, and Respondent unsealed the south lagoon to dispose of fire-fighting materials. These three incidents resulted in approximately 1.3 tons of uncontrolled emissions of H<sub>2</sub>S (2.5 tons of SO<sub>2</sub>) from the lagoons.
- d. From January 1, 2025 to present, failure to meet the 12-month consecutive limit of 233,366,000 standard cubic feet of unscrubbed biogas as fuel in the flare, in violation of condition IV(A)(1) of CP21-051.
- e. Until July 2023, failure to keep records documenting which iron sponge scrubber was operated at any given time when scrubbed biogas was combusted in certain emission units, in violation of condition III(C)(5)(a)(i) of CP19-017 and CP21-051.
- f. From April 2023 to July 2023, failure to meet the H<sub>2</sub>S limit of 100 ppmvd at the outlet of the scrubbers, in violation of condition III(C)(2)(b) of CP21-051. The H<sub>2</sub>S concentration during the April performance test was 1,837 ppmvd, or 1,737% above the limit.
- g. From June 2024 to January 2025, failure to keep records documenting calibration and maintenance of the continuous flow monitor used to measure and record the flow rate of unscrubbed biogas and scrubbed biogas routed to the flare, in violation of condition III(C)(5)(c) of CP19-017 and CP21-015.
- h. From June 1, 2024 to January 29, 2025, failure to operate and maintain a continuous flow meter to measure and record the flow rate of unscrubbed biogas to the flare, in violation of condition III(C)(3)(c) CP21-0151.
- i. Until July 2023, failure to keep records documenting daily temperature readings on each iron sponge scrubber, in violation of condition III(C)(5)(d) of CP19-017 and CP21-015.
- j. Until July 2023, failure to keep records documenting routine maintenance and preventative actions performed on the iron sponge scrubbers, in violation of condition III(C)(5)(a) of CP19-017 and CP21-051.
- k. Until July 2023, failure to keep records documenting when routine maintenance and preventative actions were performed on the flare and pilot light, in violation of condition III(C)(5)(b) in CP19-017 and CP21-051.
- l. During the April 2023, July 2023, and January 2024 performance tests at the scrubbers, failure to test H<sub>2</sub>S colorimetric tubes to ensure accuracy of detecting H<sub>2</sub>S, in violation of condition III(C)(2)(b)(iii) of CP21-051.
- m. For years 2020 and 2021, failure to submit timely compliance certification reports, in violation of condition II(B)(1) of OP18R2-003.
- n. Failure to submit malfunction reports within two working days for incidents that resulted in excess emissions related to operation of the wastewater treatment system, in violation of condition II(A)(3) of CP21-051.

#### **D. ENFORCEMENT AUTHORITY**

13. Section 113(a)(1) of the Act, 42 U.S.C. § 7413(a)(1), provides in part that at any time after the expiration of thirty (30) days following the date of the issuance of a NOV, EPA may, without regard to the period of violation, issue an order requiring compliance with the requirements of the applicable SIP or permit, issue an order to comply, issue an administrative penalty order pursuant to Section 113(d), or bring a civil action pursuant to Section 113(b) for injunctive relief and/or civil penalties.

14. The issuance of this NOV does not preclude the State of Nebraska or EPA from assessing penalties or taking any action authorized by the CAA. This NOV does not affect the obligation of Respondent to comply with all applicable federal, state, and local regulations.

#### **E. ENVIRONMENTAL IMPACT OF VIOLATIONS**

15. Exposure to low concentrations of H<sub>2</sub>S may cause irritation to the eyes, nose, or throat. Brief exposures to high concentrations of H<sub>2</sub>S (greater than 500 parts per million) can cause a loss of consciousness and possibly death. The National Institute of Occupational Safety and Health has set the “immediately dangerous to life and health” concentration for H<sub>2</sub>S at 100 ppm. In many individuals, there may be permanent or long-term effects such as headaches, poor attention span, poor memory, and poor motor function due to high concentration exposure. The H<sub>2</sub>S emissions from the Facility have exceeded this concentration, up to 1,837 ppm, though EPA is not aware of any actual harm to public health from these exceedances.

16. Not only is H<sub>2</sub>S directly dangerous to human health, but it also oxidizes into SO<sub>2</sub> in the ambient air. Short-term exposures to SO<sub>2</sub> can harm the human respiratory system and make breathing difficult. People with asthma, particularly children, are sensitive to the effects of SO<sub>2</sub>. High concentrations of SO<sub>2</sub> in the air generally also lead to the formation of other sulfur oxides (SO<sub>x</sub>). SO<sub>x</sub> can react with other compounds in the atmosphere to form small particles that contribute to particulate matter (PM) pollution. PM may penetrate deeply into the lungs and in sufficient quantity can contribute to health problems.

17. Pursuant to Section 306 of the CAA, 42 U.S.C. § 7606, Executive Order 11738, and EPA regulations at 40 C.F.R. Part 15, facilities to be utilized in federal contracts, grants, and loans must be in compliance with standards established pursuant to the Act. The violations set forth in this notification may result in ineligibility to participate with a federal contract, grant, or loan.

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Date

**DAVID COZAD**

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David Cozad

Director

Enforcement and Compliance Assurance Division

## **CERTIFICATE OF SERVICE**

(For EPA use only.)

I certify that that a true and correct copy of the foregoing Notice of Violation in the matter of Swift Beef Company, Docket Number CAA-07-2025-0209, was sent this day in the following manner to the addressees:

Copy via Email to Complainant:

Kasey Barton, Office of Regional Counsel  
*barton.kasey@epa.gov*

Christopher Appier, Enforcement and Compliance Assurance Division  
*appier.christopher@epa.gov*

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Copy via Email to Respondent for Respondent:

Kari Leonhard, Swift Beef Company  
*kari.leonhard@jbssa.com*

Copy via Certified Mail, Return Receipt Requested to Respondent:

CT Corporation System  
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Lincoln, Nebraska, 68516

Copy via email to the State of Nebraska:

Brian McMullen, Attorney  
*brian.mcmullen@nebraska.gov*

Dated this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

\_\_\_\_\_  
Signed