

FILED

April 23, 2026

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**U.S. EPA REGION 7
HEARING CLERK**

**U.S. ENVIRONMENTAL PROTECTION AGENCY
REGION 7
11201 RENNER BOULEVARD
LENEXA, KANSAS 66219**

In the Matter of:

Swift Beef Company

Respondent.

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Docket No. CAA-07-2026-0070

CONSENT AGREEMENT AND FINAL ORDER

Preliminary Statement

The U.S. Environmental Protection Agency, Region 7 (EPA or Complainant), and Swift Beef Company (Respondent) have agreed to a settlement of this action before the filing of a complaint, and thus this action is simultaneously commenced and concluded pursuant to Rules 22.13(b) and 22.18(b)(2) of the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits, 40 C.F.R. §§ 22.13(b) and 22.18(b)(2).

Jurisdiction

1. This proceeding is an administrative action for the assessment of civil penalties initiated pursuant to Section 113(d) of the Clean Air Act (CAA), 42 U.S.C. § 7413(d). Pursuant to Section 113(d) of the CAA, 42 U.S.C. § 7413(d), the Administrator and the Attorney General jointly determined that this matter, in which the first date of alleged violation occurred more than twelve months prior to the initiation of the administrative action and the penalty amount is greater than the statutory limitation, was appropriate for administrative penalty action.

2. This Consent Agreement and Final Order serves as notice pursuant to Section 113(d)(2)(A) of the CAA, 42 U.S.C. § 7413(d)(2)(A), of the EPA's intent to issue an order assessing penalties for alleged violations of the Nebraska State Implementation Plan and Title V of the CAA, 42 U.S.C. § 7661 *et seq.*, at Respondent's Grand Island, Nebraska facility.

Parties

3. Complainant is the Director of the Enforcement and Compliance Assurance Division, Region 7, as duly delegated by the Administrator of EPA.

4. Respondent is Swift Beef Company, a company doing business in Nebraska.

Statutory and Regulatory Background

5. The CAA was promulgated “to protect and enhance the quality of the Nation’s air resources so as to promote the public health and welfare and the productive capacity of its population.” 42 U.S.C. § 7401(b)(1).

6. 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 implementation, maintenance, and enforcement 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).

7. Pursuant to Section 110 of the CAA, 42 U.S.C. § 7410, after a state regulation, permit, or other enforceable mechanism is approved into the SIP by the EPA, it is enforceable both by the respective state in which it is adopted and, pursuant to Section 113(a) of the CAA, 42 U.S.C. § 7413(a), by the EPA.

8. 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.

9. 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.

10. 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.

11. Pursuant to Section 502(a) of the CAA, 42 U.S.C. § 7661a(a), it is unlawful for any person to, among other things, operate a major source subject to Title V except in compliance with a Title V permit after the effective date of any permit program approved or promulgated under Title V of the CAA.

12. EPA fully approved the operating permit program submitted by Nebraska for the purpose of complying with federal requirements for an approvable state program to issue operating permits to all major stationary sources and certain other sources effective October 18, 1995. 60 *Fed. Reg.* 45671. The Title V Operating Permit (class I) Program is codified at 129 Neb. Admin. Code, ch. 6.

13. Title 129 of the Neb. Admin. Code., ch. 6, § 001.01, requires that any major source subject to 40 C.F.R. Part 70 obtain a class I operating permit.

14. The regulation at 40 C.F.R. § 70.2 defines “major source” as, among other things, a major stationary source of air pollutants that directly emits or has the potential to emit 100 tons per year or more of any air pollutant subject to regulation. Sulfur dioxide (SO₂) is a criteria air pollutant pursuant to Section 109 of the CAA and for which national primary and secondary air quality standards are set forth at 40 C.F.R. Part 50.

15. Section 302(e) of the CAA, 42 U.S.C. § 7602(e), defines “person” as an individual, corporation, partnership, association, State, municipality, political subdivision of a State, and any agency, department, or instrumentality of the United States and any officer, agent, or employee thereof.

16. Section 302(z) of the CAA, 42 U.S.C. § 7602(z), defines “stationary source” as generally any source of an air pollutant except those emissions resulting directly from an internal combustion engine for transportation purposes or from a nonroad engine or nonroad vehicle.

17. Section 113(d) of the CAA, 42 U.S.C. § 7413(d), states that the Administrator may issue an administrative order against any person assessing a civil administrative penalty of up to \$25,000 per day of violation whenever, on the basis of any available information, the Administrator finds that such person has violated or is violating any requirement or prohibition of an applicable implementation plan. The Debt Collection Improvement Act of 1996, 31 U.S.C. § 3701, as amended, and the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015, 28 U.S.C. § 2461, and implementing regulations at 40 C.F.R. Part 19, increased these statutory maximum penalties to \$59,114 for violations that occur after November 2, 2015, and for which penalties are assessed on or after January 8, 2025.

18. Pursuant to Section 113(d)(2)(B) of the CAA, 42 U.S.C. § 7413(d)(2)(B), the Administrator may compromise, modify, or remit, with or without conditions, any administrative penalty which may be imposed under this subsection.

Factual Allegations

19. Respondent is, and at all times referred to herein was, a “person” as defined by Section 302(e) of the CAA, 42 U.S.C. § 7602(e).

20. Respondent is the owner and operator of a beef slaughter and processing facility located at 555 South Stuhr Road, Grand Island, Nebraska (Facility).

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

22. Respondent operates two lagoons for the treatment of wastewater at the Facility. These lagoons produce biogas. Biogas contains methane and hydrogen sulfide (H₂S). H₂S oxidizes to sulfur dioxide (SO₂) in the ambient air or when flared.

23. Respondent controlled biogas emissions from the lagoons using flare and iron sponge scrubbers until February 23, 2024, when the scrubbers became inoperable due to a fire. Respondent currently controls biogas emissions using only the flare.

24. The Nebraska Department of Environment and Energy (NDEE)¹ 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.

25. NDEE issued to Respondent class II operating permit no. OP18R2-003 (November 2018).² 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.

26. 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 H₂S and SO₂.

27. On September 3, 2025, EPA issued a Notice of Violation pursuant to Section 113(a)(1) of the CAA to Respondent for alleged violations of the Nebraska State Implementation Plan.

28. On September 29, 2025, DWEE issued to Respondent construction permit no. CP24-022, which superseded construction permit CP21-051 and contains requirements for the installation of an oxygen injection system on the wastewater lagoons at the Facility.

Alleged Violations

29. Complainant hereby states and alleges that Respondent has violated its permits, the Nebraska SIP, and the CAA as follows:

¹ Effective July 1, 2025, NDEE merged with another state agency to become the Nebraska Department of Water Energy, and Environment (DWEE).

² 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.

Counts 1-2
Failure to comply with H₂S Emission Limits

30. The facts stated in Paragraphs 19 through 28 above are herein incorporated.
31. Condition III(C)(2)(b) of Permit CP21-051 limited emissions of H₂S at the outlet of the scrubbers to 100 parts per million by volume (ppmvd).
32. During a performance test conducted by Respondent in April 2023, H₂S concentrations at the scrubber outlet were 1,837 ppmvd, or 1,737% above the limit.
33. Condition III(C)(2)(b) of Permit CP21-051 limited emissions of H₂S at the inlet of the scrubbers to 5,000 ppmvd.
34. During performance tests conducted by Respondent in July 2023 and January 2024, H₂S concentrations at the scrubber inlet were 6,419 ppmvd and 8,593 ppmvd, respectively.
35. Respondent exceeded the H₂S limits at the outlet and inlet of the scrubbers, in violation of Permit CP21-051, the Nebraska SIP, and the CAA.

Count 3
Failure to Comply with Performance Test Requirements

36. The facts stated in Paragraphs 19 through 28 above are herein incorporated.
37. Condition III(C)(2)(c)(iii) of Permit CP21-051 required Respondent to test the colorimetric tubes during each performance test to ensure their accuracy of detecting H₂S within the sources' scrubbed and unscrubbed biogas.
38. Respondent did not test the colorimetric tubes during the April 2023, July 2023, and January 2024 performance tests conducted at the scrubbers.
39. Respondent failed to test the colorimetric tubes during the scrubber performance tests, in violation of Permit CP21-051, the Nebraska SIP, and the CAA.

Count 4
Failure to Properly Operate and Maintain Scrubbers

40. The facts stated in Paragraphs 19 through 28 above are herein incorporated.
41. Condition I(H) of Permit CP21-051 required Respondent to properly install, operate, and maintain all permitted emission units, associated emissions conveyances, required control equipment, and required monitoring equipment.

42. Respondent did not properly replace the media for the scrubbers on a regular schedule to prevent exhaustion. Regular replacement of scrubber media is a necessary maintenance action to effectively control emissions.

43. During a portion of 2023, Respondent diverted clarifier sludge into the lagoons, which increased the rate at which H₂S was generated in the biogas treated by the scrubbers. Because the reaction between H₂S and the scrubber media is exothermic, operating temperatures rose. Respondent failed to address these temperature increases, and in February 2024 the scrubbers caught fire and became inoperable.

44. Respondent failed to properly operate and maintain the scrubbers, in violation of Permit CP21-051, the Nebraska SIP, and the CAA.

Count 5
Failure to Control Biogas Emissions

45. The facts stated in Paragraphs 19 through 28 above are herein incorporated.

46. Condition III(C)(1) of Permit CP21-051 required Respondent to route biogas generated by the lagoons to the flare or scrubbers to control emissions.

47. Respondent did not route biogas to the flare or scrubbers during several serious incidents at the Facility. 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 incidents resulted in uncontrolled emissions of H₂S from the lagoons.

48. Respondent failed to route biogas to the flare or scrubbers to control emissions, in violation of CP21-051, the Nebraska SIP, and the CAA.

Count 6
Failure to Comply with Flare Fuel Limit

49. The facts stated in Paragraphs 19 through 28 above are herein incorporated.

50. Condition IV(A)(1) of Permits CP21-051 and CP24-022 limit emissions of unscrubbed biogas as fuel in the flare to 233,366,000 standard cubic feet (scf) during any twelve (12) consecutive calendar month period.

51. From January 1, 2025 to present, Respondent has exceeded the 12-month consecutive limit of 233,366,000 scf of unscrubbed biogas as fuel in the flare.

52. Respondent exceeded the unscrubbed biogas fuel limit for the flare, in violation of Permits CP21-051 and CP24-022, the Nebraska SIP, and the CAA.

Count 7
Failure to Operate and Maintain Continuous Flow Monitor

53. The facts stated in Paragraphs 19 through 28 above are stated herein.

54. Condition III(C)(3)(c) of Permit CP21-051 required Respondent to install, calibrate, operate, and maintain a continuous flow meter to measure and record the flow rate of unscrubbed biogas routed to the flare.

55. From June 1, 2024, to January 29, 2025, Respondent did not operate and maintain a continuous flow meter to measure and record the flow rate of unscrubbed biogas to the flare.

56. Respondent failed to operate and maintain a continuous flow meter to measure and record the flow rate of unscrubbed biogas to the flare, in violation of Permit CP21-051, the Nebraska SIP, and the CAA.

Counts 8 to 12
Failure to Comply with Recordkeeping Requirements

57. The facts stated in Paragraphs 19 through 28 above are herein incorporated.

58. Condition III(C)(5)(a) of Permits CP19-017 and CP21-051 required Respondent to keep records documenting when routine maintenance and preventative actions were performed with a description of the maintenance and/or preventative action conducted for each iron sponge scrubber.

59. Until July 2023, Respondent did not keep records documenting routine maintenance and preventative actions performed on the scrubbers.

60. Condition III(C)(5)(c)(a)(i) of Permits CP19-017 and CP21-051 required Respondent to keep documenting which iron sponge scrubber was operated at any given time when scrubbed biogas was combusted in certain emission units.

61. Until July 2023, Respondent did not keep records documenting which iron scrubber was operated when scrubbed biogas was combusted in certain emission units.

62. Condition III(C)(5)(b) of Permits CP19-017 and CP21-051 required Respondent to keep records documenting when routine maintenance and preventative actions were performed on the flare and pilot light.

63. Until July 2023, Respondent did not keep records documenting when routine maintenance and preventative actions were performed on the flare and pilot light.

64. Condition III(C)(5)(c) of Permits CP19-017 and CP21-051 required Respondent to keep records documenting the 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.

65. Until May 2024, Respondent did not 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.

66. Condition III(C)(5)(d) of Permits CP19-017 and CP21-015 required Respondent to keep records documenting daily temperature readings on each iron sponge scrubber.

67. Until July 2023, Respondent did not keep records documenting daily temperature readings on each iron sponge scrubber.

68. Respondent failed to comply with the recordkeeping requirements cited above, in violation of Permits CP19-017 and CP21-051, the Nebraska SIP, and the CAA.

**Counts 13 to 17
Failure to Timely Report Malfunctions**

69. The facts stated in Paragraphs 19 through 28 above are herein incorporated.

70. Condition II(A)(3) of CP21-051 required Respondent to report any emissions due to malfunctions that are, or may be, in excess of applicable emission limits to the NDEE within two working days.

71. Respondent did not timely report malfunctions as described in the chart below.

Malfunction Description	Began	Due	Submitted
Emissions release due to the iron sponge scrubber failure	02/23/24	2/25/24	08/21/24
A failure of the biogas flowmeter	06/01/24	06/03/24	
A failure to document maintenance and calibration of the biogas flowmeter	Unknown	Unknown	
Emissions release due to a collapse of the north wastewater lagoon	01/06/24	01/08/24	
Emissions release due to cutting the south lagoon cover	02/26/24	02/28/24	

72. Respondent failed to report emissions due to malfunctions that are, or may be, in excess of applicable emission limits to NDEE within two working days, in violation of Permit CP21-051, the Nebraska SIP, and the CAA.

Counts 18 to 19
Failure to Submit Compliance Certification Reports

73. The facts stated in Paragraphs 19 through 28 above are herein incorporated.

74. Condition II(B)(1) of Permit OP18R2-003 required Respondent to submit a certification of compliance with the terms and conditions of this permit, including emission limitations, standards, or work practices, for the preceding calendar year, to be submitted to NDEE by March 31 of each year.

75. On June 15, 2024, Respondent submitted the compliance certification reports for years 2020 and 2021, which were due on March 31, 2021, and March 31, 2022, respectively.

76. Respondent failed to timely submit annual compliance certification reports for 2020 and 2021, in violation of Permit OP18R2-003, the Nebraska SIP, and the CAA.

Count 20
Failure to Submit Class I Operating Permit Application

77. The facts stated in Paragraphs 19 through 28 above are herein incorporated.

78. The Title V regulations at 40 C.F.R. § 70.5(a) require the owner or operator of a Part 70 source to submit a timely and complete application, and 40 C.F.R. § 70.5(a)(1)(i) states that a timely application for a source applying for a Part 70 permit for the first time is one that is submitted within 12 months after the source becomes subject to the permit program.

79. Title 129 of the Neb. Admin. Code, ch. 6, § 001.07, requires the owner or operator of a source that becomes subject to the class I operating permit program at any time following the effective date of these regulations will file an application pursuant to 40 C.F.R. § 70.5(a)(1).

80. After the scrubbers caught fire and became inoperable, Respondent controlled emissions from the wastewater lagoons using only the flare, which resulted in an increase of SO₂ emissions. Respondent is estimated to have exceeded the 100 tons per year SO₂ emission threshold in October 2024 and therefore became a major source subject to the class I operating permit program requirements.

81. Respondent was required to submit a class I operating permit application by October 2025.

82. Respondent did not submit a class I operating permit application.

83. Respondent failed to timely submit a class I operating permit application, in violation of 129 Neb. Admin. Code, ch. 6, § 001.07, 40 C.F.R. § 70.5(a), and the CAA.

CONSENT AGREEMENT

84. For the purposes of this proceeding, as required by 40 C.F.R. § 22.18(b)(2),
Respondent:

- (a) admits the jurisdictional allegations set forth herein;
- (b) neither admits nor denies the specific factual allegations stated herein;
- (c) consents to the assessment of a civil penalty, as stated herein;
- (d) consents to the issuance of any specified compliance or corrective action order, as may be specified in this Consent Agreement and Final Order;
- (e) consents to any conditions specified herein;
- (f) consents to any stated Permit Action, as such item is defined in 40 C.F.R. § 22.3(a) and as may be set forth in this Consent Agreement and Final Order;
- (g) waives any right to contest the allegations set forth herein; and
- (h) waives its rights to appeal the Final Order accompanying this Consent Agreement.

85. By signing this consent agreement, Respondent waives any rights or defenses that Respondent has or may have for this matter to be resolved in federal court, including but not limited to any right to a jury trial, and waives any right to challenge the lawfulness of the Final Order accompanying the Consent Agreement.

86. Respondent consents to the issuance of this Consent Agreement and Final Order and consents for the purposes of settlement to the payment of the civil penalty specified herein.

87. Respondent and EPA agree to conciliate this matter without the necessity of a formal hearing and to bear their respective costs and attorneys' fees.

88. The parties consent to service of this Consent Agreement and Final Order electronically at the following e-mail addresses: barton.kasey@epa.gov (for Complainant) and scase@mcgrathnorth.com (for Respondent). Respondent understands that the Consent Agreement and Final Order will become publicly available upon filing.

Penalty Payment

89. Respondent agrees that, in settlement of the claims alleged herein, Respondent shall pay a civil penalty of \$1,578,440, as set forth below.

90. Respondent shall pay the penalty within thirty (30) days of the effective date of the Final Order. Such payment shall identify Respondent by name and docket number and shall be made using any payment method provided at <http://www.epa.gov/financial/makepayment>. For instructions for wire transfers and additional information, see <https://www.epa.gov/financial/additional-instructions-making-payments-epa>.

91. Confirmation of payment shall be sent to the following:

Regional Hearing Clerk
R7_Hearing_Clerk_Filings@epa.gov; and

Kasey Barton, Attorney
barton.kasey@epa.gov.

92. Respondent understands that its failure to timely pay any portion of the civil penalty or any portion of a stipulated penalty as stated in Paragraph 96, below, may result in the commencement of a civil action in Federal District Court to recover the full remaining balance, along with penalties and accumulated interest. In such case, interest shall begin to accrue on a civil or stipulated penalty from the date of delinquency until such civil or stipulated penalty and any accrued interest are paid in full. 31 C.F.R. § 901.9(b)(1). Interest will be assessed at a rate of the United States Treasury Tax and loan rates in accordance with 31 U.S.C. § 3717. Additionally, a charge will be assessed to cover the costs of debt collection including processing and handling costs, and a non-payment penalty charge on a per year, compounded annually basis will be assessed on any portion of the debt which remains delinquent more than ninety (90) days after payment is due. 31 U.S.C. § 3717(e)(2).

93. Pursuant to 26 U.S.C. § 6050X and 26 C.F.R. § 1.6050X-1, EPA is required to send to the Internal Revenue Service (IRS) annually, a completed IRS Form 1098-F (“Fines, Penalties, and Other Amounts”) with respect to any administrative settlement that requires a payor to pay an aggregate amount that EPA reasonably believes will be equal to or in excess of \$50,000 for the payor’s violation of any law or the investigation or inquiry into the payor’s potential violation of any law, including amounts paid for “restitution or remediation of property” or to come “into compliance with a law.” EPA is further required to furnish a copy of IRS Form 1098-F to each payor. Respondent’s failure to provide IRS Form W-9 or Tax Identification Number (TIN), as described below, may subject Respondent to a penalty, per 26 U.S.C. § 6723, 26 U.S.C. § 6724(d)(3), and 26 C.F.R. § 301.6723-1. To provide EPA with sufficient information to fulfill these obligations, Respondent agrees that:

- (a) Respondent shall complete an IRS Form W-9 (“Request for Taxpayer Identification Number and Certification”), which is available at <https://www.irs.gov/pub/irs-pdf/fw9.pdf>;
- (b) Respondent shall certify that its completed IRS Form W-9 includes Respondent’s correct TIN or that Respondent has applied and is waiting for issuance of a TIN;

- (c) Respondent shall email its completed Form W-9 to EPA's Cincinnati Finance Division at *sherrer.dana@epa.gov* within 30 days after the Final Order ratifying this Agreement is filed, and EPA recommends encrypting IRS Form W-9 email correspondence; and
- (d) In the event that Respondent has certified in its completed IRS Form W-9 that it does not yet have a TIN but has applied for a TIN, Respondent shall provide EPA's Cincinnati Finance Division with Respondent's TIN, via email, within five (5) days of Respondent's receipt of a TIN issued by the IRS.

Conditions

94. As a condition of settlement and in compromise of the civil penalty that EPA could otherwise impose herein, Respondent agrees to install and achieve full operation of the iron sponge scrubbers or the oxygen injection system to control emissions from the wastewater lagoons in compliance with the requirements of Permit CP24-022 by March 31, 2027.

95. Respondent shall provide a notice of completion of the requirements of Paragraph 94 to Christopher Appier, Compliance Officer, at *appier.christopher@epa.gov*.

96. In the event Respondent fails to comply with the requirements of Paragraph 94, Respondent shall be liable for stipulated penalties according to the provisions set forth below:

- (a)

Penalty Per Day	Period of Noncompliance
\$450	1st through 30 th day
\$700	31 st day and beyond
- (b) The determination as to whether the requirements of Paragraph 94 have been completed shall be in the sole discretion of EPA.
- (c) Stipulated penalties shall begin to accrue on the day after performance is due and shall continue to accrue through the final day of completion of the required activities.
- (d) Respondent shall pay stipulated penalties not more than fifteen (15) days after receipt of written demand by EPA for such penalties. Method of payment shall be in accordance with the provisions of the Penalty Payment section above. Interest and late charges shall be paid as stated in Paragraph 92 above.
- (e) Nothing in this agreement shall be construed as prohibiting, altering or in any way limiting the ability of EPA to seek any other remedies or sanctions available by virtue of Respondent's violation of this agreement or of the statutes and regulations upon which this agreement is based, or for Respondent's violation of any applicable provision of law.

- (f) EPA may, in the unreviewable exercise of its discretion, reduce or waive stipulated penalties otherwise due under the Consent Agreement and Final Order.

Effect of Settlement and Reservation of Rights

97. Full payment of the penalty proposed and performance of the conditions in this Consent Agreement shall only resolve Respondent's liability for federal civil penalties for the violations alleged herein. Complainant reserves the right to take any enforcement action with respect to any other violations of the CAA or any other applicable law.

98. The effect of settlement described in the immediately preceding paragraph is conditioned upon the accuracy of Respondent's representations to the EPA, as memorialized in the paragraph directly below.

99. Except for the condition required by Paragraph 94, above, Respondent certifies by the signing of this Consent Agreement that to the best of its belief after reasonable inquiry it is presently in compliance with all requirements of the CAA and Nebraska SIP at the Facility.

100. Full payment of the penalty proposed and performance of the conditions in this Consent Agreement shall not in any case affect the right of the Agency or the United States to pursue appropriate injunctive or other equitable relief or criminal sanctions for any violations of law. This Consent Agreement and Final Order does not waive, extinguish, or otherwise affect Respondent's obligation to comply with all applicable provisions of the CAA and regulations promulgated thereunder.

101. The allegations in this Consent Agreement and Final Order constitute "prior violations" as that term is used in EPA's *Clean Air Act Stationary Source Civil Penalty Policy* to determine Respondent's "history of noncompliance" under Section 113(e) of the CAA, 42 U.S.C. § 7413(e).

102. Complainant reserves the right to enforce the terms and conditions of this Consent Agreement and Final Order.

General Provisions

103. By signing this Consent Agreement, the undersigned representative of Respondent certifies that they are fully authorized to execute and enter into the terms and conditions of this Consent Agreement and have the legal capacity to bind the party they represent to this Consent Agreement.

104. This Consent Agreement shall not dispose of the proceeding without a final order from the Regional Judicial Officer or Regional Administrator ratifying the terms of this Consent Agreement. This Consent Agreement and Final Order shall be effective upon the filing of the Final Order by the Regional Hearing Clerk for EPA, Region 7. Unless otherwise stated, all time periods stated herein shall be calculated in calendar days from such date.

105. The penalty specified herein shall represent civil penalties assessed by EPA and shall not be deductible for purposes of Federal, State, or local taxes.

106. For purposes of the identification requirement in Section 162(g)(2)(A)(ii) of the Internal Revenue Code, 26 U.S.C. § 162(f)(2)(A)(ii), and 26 C.F.R. § 162-21(b)(2), performance of Paragraph 94, above, is restitution, remediation, or required to come into compliance with the law.

107. This Consent Agreement and Final Order shall apply to and be binding upon Respondent and Respondent's agents, successors and/or assigns. Respondent shall ensure that all contractors, employees, consultants, firms, or other persons or entities acting for Respondent with respect to matters included herein comply with the terms of this Consent Agreement and Final Order.

**RESPONDENT:
SWIFT BEEF COMPANY**

Date: 04/02/2026



Signature

Bob Krebs

Name

President and COO, Swift Beef Company

Title

COMPLAINANT:
U.S. ENVIRONMENTAL PROTECTION AGENCY

Alyse Stoy
Acting Director
Enforcement and Compliance Assurance Division

Kasey Barton
Senior Assistant Regional Counsel
U.S. Environmental Protection Agency, Region 7

FINAL ORDER

Pursuant to Section 113(d) of the CAA, 42 U.S.C. § 7413(d), and the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits, 40 C.F.R. Part 22, the foregoing Consent Agreement resolving this matter is hereby ratified and incorporated by reference into this Final Order.

Respondent is ORDERED to comply with all of the terms of the Consent Agreement. In accordance with 40 C.F.R. § 22.31(b), the effective date of the foregoing Consent Agreement and this Final Order is the date on which this Final Order is filed with the Regional Hearing Clerk.

IT IS SO ORDERED.

Karina Borromeo
Regional Judicial Officer

CERTIFICATE OF SERVICE

(to be completed by EPA)

I certify that that a true and correct copy of the foregoing Consent Agreement and Final Order was sent this day in the following manner to the addressees:

Copy via E-mail to Complainant:

Kasey Barton, EPA, barton.kasey@epa.gov

Christopher Appier, EPA, appier.christopher@epa.gov

Carrie Venerable, EPA, venerable.carrie@epa.gov

Copy via E-mail to Attorney for Respondent:

Steven P. Case, scase@mcgrathnorth.com
Mcgrath North Mullin & Kratz, PC LLO
First National Tower Suite 3700
1601 Dodge Street
Omaha, Nebraska 68102

Signed and Dated