



May 18, 2017

The Honorable David J. Cahill  
State's Attorney  
Windsor County

Via e-mail: david.cahill@vermont.gov

Dear Mr. Cahill,

I hope this letter finds you well. I would like to request that your office investigate and, as appropriate, file criminal charges against Vermont Packinghouse and its employees responsible for failing to restrain, stun, and kill pigs and cattle properly on the first attempt on five dates since October 2016 at its 25 Fairbanks Rd. location in North Springfield. This caused the animals to cry out and walk around after being shot in the head—as documented in the attached reports from the U.S. Department of Agriculture's (USDA) Food Safety and Inspection Service (FSIS).

According to the reports, on the days in question, federal officials documented the following:

- **October 12, 2016:** "[A]t approximately 8:08 A.M. . . . the Consumer Safety Inspector (CSI) observed the plant supervisor attempting to shoot a large . . . swine . . . . The animal was ineffectively stunned as evidenced by loud vocalization and it remained ambulatory. The swine managed to escape . . . . [A]t approximately 8:17 A.M. . . . employees were able to successfully stun the animal . . . . The first ineffective stun was on the left cheek approximately 2 centimeters under the corner of the eye, with a hole, approximately 2 inches deep with broken bone fragments in the cheek. This is considered egregious . . . ." <sup>1</sup>
- **October 12, 2016:** "The establishment manager was attempting to stun [a] large, market swine, with a .410 shotgun . . . . The animal was ineffectively stunned as evidenced by loud vocalizing and it remaining ambulatory." <sup>2</sup>
- **January 20, 2017:** "The plant was attempting to stun a bovine . . . . The first attempt was ineffective . . . as evidenced by the animal remaining standing and kicking. The employee attempted to stun the animal with a prepositioned backup device, but it failed to fire. . . . [T]he employee had to exit the stunning platform by climbing down a ladder to retrieve another device. . . . [This is] egregious stunning of a bovine . . . ." <sup>3</sup>
- **March 2, 2017:** "The plant was attempting to stun a bovine . . . . The first attempt was ineffective . . . as evidenced by the animal remaining standing and kicking. The

<sup>1</sup>FSIS Philadelphia District Manager Susan G. Scarcia, *Notice of Suspension: Humane Handling Enforcement Action against Est. 45029/P45029 – Vermont Packinghouse, LLC* (Oct. 12, 2016), <https://www.fsis.usda.gov/wps/wcm/connect/9a05e7fb-4be9-42d4-9040-ce7cf84c9406/45029-Suspension-101216.pdf?MOD=AJPERES>.

<sup>2</sup>*Id.*

<sup>3</sup>FSIS Philadelphia District Manager Susan G. Scarcia, *Notice of Reinstatement of Suspension: Humane Handling Enforcement Action Against Est. 45029/P45029 – Vermont Packinghouse, LLC* (Jan. 20, 2017), <https://www.fsis.usda.gov/wps/wcm/connect/3c540a06-39b4-437e-aba8-05c2ecbe3942/45029-NOROS-012017.pdf?MOD=AJPERES>.

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employee was then attempting to put a halter around the animal in order to take a second shot. . . . [This is] egregious stunning of a bovine . . . ."<sup>4</sup>

- **March 30, 2017:** "[T]he plant received a Noncompliance Record for the ineffective hand held captive bolt stunning of a bovine animal. On this day, the first stunning attempt with a hand held captive bolt was ineffective."<sup>5</sup>
- **April 7, 2017:** "[The CSI] observed an ineffective stunning attempt with a hand held captive bolt on a bovine . . . . The first attempt was ineffective in stunning the animal because the animal had not been restrained adequately. The animal lowered its head and the employee had to wait for the head to rise in order to administer the second stunning attempt . . . ."<sup>6</sup>

Such conduct appears to violate 13 V.S.A. § 352, which states: "A person commits the crime of cruelty to animals if the person: . . . (2) . . . tortures, torments . . . or mutilates an animal . . . ." "Animal" is defined as "all living sentient creatures, not human beings."<sup>7</sup> The conduct described in the USDA reports does not fall under any affirmative defenses to prosecution provided.<sup>8</sup> You may also consider working with the Vermont Agency of Agriculture to investigate violations of the Humane Slaughter of Livestock statute. 6 V.S.A. § 3132 states that "[n]o slaughterer, packer or stockyard operator may bleed or slaughter livestock except by a humane method. . . ." "Humane method" is defined as "[a] method whereby the animal is rendered insensible to pain by mechanical, electrical, chemical, or other means that is rapid and effective before being shackled, hoisted, thrown, cast, or cut. . . ."<sup>9</sup> Importantly, FSIS action does not preempt criminal liability under state law for slaughterhouse workers who perpetrate acts of cruelty to animals.<sup>10</sup>

We respectfully request that your office investigate Vermont Packinghouse as well as the workers responsible for this conduct and file cruelty charges against all appropriate parties. Please tell us how we can assist. Thank you for your consideration and for the difficult work that you do.

Sincerely,



Melissa Mary Wilson, Esq.  
Policy Associate

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<sup>4</sup>FSIS Philadelphia District Manager Susan G. Scarcia, *Notice of Reinstatement of Suspension: Humane Handling Enforcement Action against Est. 45029/P45029 – Vermont Packinghouse, LLC* (Mar. 3, 2017), <https://www.fsis.usda.gov/wps/wcm/connect/4d77f112-b1a4-4ad2-8738-656556522fa1/45029-NOROS-030317.pdf?MOD=AJPERES>.

<sup>5</sup>FSIS Philadelphia District Manager Susan G. Scarcia, *Notice of Reinstatement of Suspension: Humane Handling Enforcement Action against Est. 45029/P45029 – Vermont Packinghouse, LLC* (Apr. 7, 2017), <https://www.fsis.usda.gov/wps/wcm/connect/247a20a0-76fb-486e-a0a7-eaef18b0a77/45029-NOROS-040717.pdf?MOD=AJPERES>.

<sup>6</sup>*Id.*

<sup>7</sup>VT. STAT. ANN. TIT. 13, § 351.

<sup>8</sup>VT. STAT. ANN. TIT. 13, § 352b.

<sup>9</sup>VT. STAT. ANN. TIT. 6, § 3131(6)(a).

<sup>10</sup>*See Nat'l Meat Assoc. v. Harris*, 132 S. Ct. 965, 974 n.10 (2012) ("States may exact civil or criminal penalties for animal cruelty or other conduct that also violates the FMIA. *See* [21 U.S.C.] §678; *cf. Bates v. Dow Agrosciences, LLC*, 544 U. S. 431, 447 (2005) (holding that a preemption clause barring state laws 'in addition to or different' from a federal Act does not interfere with an 'equivalent' state provision). Although the FMIA [Federal Meat Inspection Act] preempts much state law involving slaughterhouses, it thus leaves some room for the States to regulate.").