



Steve Troxler
Commissioner

North Carolina Department of Agriculture
and Consumer Services
Meat and Poultry Inspection Division

W. Alan Wade
State Director

June 30, 2014

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Harold R. Newby
3692 Herbert Faucette Road
Bullock, North Carolina 27507

RE: CIVIL PENALTY ASSESSMENT FOR VIOLATIONS
OF THE MEAT INSPECTION LAWS
G.S. § 106-549.17 and 106-549.23

Dear: Mr. Harold R. Newby

Pursuant to North Carolina General Statute (G.S.) 106-549.35(c) this letter is notice of a civil penalty by the North Carolina Department of Agriculture and Consumer Services, Meat and Poultry Inspection Division (NCDA&CS). The civil penalty assessment document is attached.

Within 60 days from the date of receipt, you must do one of the following:

1. Pay the civil penalty assessment; or
2. File a written petition for a contested case hearing in the Office of Administrative Hearings appealing the penalty assessment.

Pursuant to G.S. §150B-22, informal settlement negotiations may be initiated at any time. To negotiate a settlement of this assessment, present your offer to Mr. W. Alan Wade, Director, Meat & Poultry Inspection Division, who may be contacted by telephone at (919) 707-3180. Settlement offers do not extend the 60 day deadline for payment or filing of a contested case petition.

Mr. Harold R. Newby

Page 2

Additional information about your options is provided below:

-PAYMENT-

To pay the penalty, please send your payment by check or money order made payable to the North Carolina Department of Agriculture and Consumer Services to:

North Carolina Department of Agriculture and Consumer Services
Mr. W. Alan Wade, Director
Meat & Poultry Inspection Division
1001 Mail Service Center
Raleigh, North Carolina 27699-1001

-APPEAL-

If you file a contested case petition, it must be in writing and in the form prescribed by G.S. § 150B-23. File the petition and one copy with:

Office of Administrative Hearings
6714 Mail Service Center
Raleigh, North Carolina 27699-1001

Any questions about filing a petition may be directed to the Clerk of OAH by telephone (919) 431-3000. You must serve NCDA&CS by mailing a copy of the petition to:

Ms. Tina Hlabse
North Carolina Department of Agriculture and Consumer Services
Process Agent and General Counsel
1001 Mail Service Center
Raleigh, North Carolina 27699-1001

Payment of the penalty will not foreclose further enforcement action against you for any new violation. If the violations which resulted in the assessment are of a continuing nature, N.C.D.A. & C.S. reserves the right to assess additional civil penalties in the future or take other enforcement action against you.

Mr. Harold R. Newby

Page 3

Your attention to this matter is appreciated.

Sincerely,

W. Alan Wade

Mr. W. Alan Wade
Director, Meat & Poultry Inspection Division

WAW:wcp

Attachments: Assessment Document

CC: Ms. Anne J. Brown, Special Deputy Attorney General

Ms. Tina Hlabse, NCDA&CS General Council

STATE OF NORTH CAROLINA
COUNTY OF GRANVILLE

NORTH CAROLINA DEPARTMENT OF
AGRICULTURE & CONSUMER SERVICES,
MEAT & POULTRY INSPECTION DIVISION

IN THE MATTER OF)

Mr. Harold R. Newby)

FOR VIOLATIONS OF N.C. COMPULSORY)
MEAT INSPECTION LAWS)
G.S. § 106-549.17 and 106-549.23)

) NOTICE OF VIOLATIONS
) AND ASSESSMENT OF
) CIVIL PENALTY

Acting pursuant to North Carolina General Statute (G.S.) § 106-549.35(c), Mr. W. Alan Wade, Director, Meat and Poultry Inspection Division (M.P.I.D.) of the North Carolina Department of Agriculture and Consumer Services (N.C.D.A. & C.S.) makes the following:

I. FINDINGS OF FACTS:

- A. This investigation is a result of information received from an anonymous individual who alleged that the slaughtering, processing and selling of non-inspected pork meat products was being conducted by Mr. Harold Newby, 3692 Herbert Faucette Road, Bullard, North Carolina.
- B. On March 13, 2014, North Carolina Department of Agriculture and Consumer Services (N.C.D.A. & C.S.), Meat and Poultry Inspection Division (M.P.I.D.), Food Compliance Officer Willis C. Philyaw (here in after FCO Philyaw), Daniel E. Moody Jr. (here in after FCO Moody) and Marvin Lackman (here in after FCO Lackman) accompanied by the Granville County Sheriff Department executed a search warrant on behalf of the NCDA & CS at the property of Mr. Harold R. Newby, 3692 Herbert Faucette Road, Bullock, North Carolina 27507.
- C. Upon entering the property, FCO's Philyaw, Lackman and Moody observed and photographed the location and conditions being used by Mr. Harold R. Newby to slaughter, process and sell misbranded and/or adulterated pork meat products to the general public.
- D. A 30 foot X 40 foot tin building with a concrete floor was being used to slaughter and process the swine. FCO's Philyaw, Lackman and Moody observed one recently slaughtered hog hanging from a boom attached to the back of tractor near the entrance door of the building and it was in the process of being skinned by two individuals.

- E. Inside the 30 ft X 40 ft tin building the following unsanitary conditions were observed:
1. The meat band saw was contaminated with fat, blood build-up, peeling paint and rust from previous day(s) usage.
 2. The ceiling of the tin building had a large amount of spider webs, dirt and other unidentified falling material.
 3. Cutting tables had numerous deep cuts, fat and meat build-up from previous day(s) usage.
 4. The grinder tray and head was rusty and had meat scraps and fat build-up from previous day(s) usage.
 5. Upright refrigerators/freezers had dried blood and rust build-up from previous day(s) usage.
 6. No evidence of any hot water was available.
 7. Numerous types of chemicals and oil based products, (bleach, WD-40, Comet, Brake Fluid, tube grease, motor oil, etc), were being stored in the direct area where pork products were being processed.
 8. A large knife with a rusty blade and duck tape on the handle was observed next to one of the cutting boards.
 9. Blue plastic round containers were setting directly on the floor and contained fresh pork trimmings.
 10. Hand meat saws with rusty blades were hanging on the wall of the building next to grease guns and other hand tools.
 11. A plastic work apron with blood and fat residue was hanging from a nail on the wall.
 12. The concrete floor in the processing area had fat, dried blood and dirt build-up from previous day(s) usage.
- F. A white wooden storage building approximately 12 feet X 12 feet was being used as a salt curing room and contained a wooden box with approximately two hundred and fifty (250) pounds of salted pork heads and pork tails that were contaminated with hair.
- G. FCO's Lackman, Philyaw and Moody interviewed Mr. Harold R. Newby in reference to his alleged slaughtering and selling of misbranded/non-inspected and/or adulterated pork meat products to the general public.
- H. Mr. Harold R. Newby stated in a signed statement dated March 13, 2014, that he has been slaughtering, processing, storing, offering for sale and selling (without the benefit of N.C.D.A. or U.S.D.A. inspection), two to three swine carcasses per week for the past forty (40) years in which he slaughtered and processed into pork sausage and various other pork products.

I. A review of the area used to slaughter the swine revealed the following unsanitary conditions:

1. The scald vat was rusty, filled with hair, debris and had rusty chains which were used to remove the animals from the scald vat water.
2. A wooden platform was observed which was used to shave the hair off the swine and it had blood stains and hair from previous day(s) usage.
3. Large amounts of swine hair was scattered all around the scald vat area from previous day(s) usage.

J. Mr. Harold R. Newby was issued an on-site cease and desist letter (Form C&E 20) for the selling of misbranded/non-inspected meat products to the general public.

II. CONCLUSIONS OF LAW

Mr. Harold R. Newby found to be slaughtering, processing, storing, offering for sale and/or selling misbranded/non-inspected and/or adulterated pork meat products to the general public. In addition, the unsanitary conditions in the location/facility were such that all products slaughtered, processed, or stored, would be rendered adulterated in violation of General Statutes § 106-549.17 and 106-549.23 and may be assessed a civil penalty of up to five thousand (\$5,000.00) dollars per violation under General Statute § 106-549.35 (c).

The Commissioner of Agriculture, pursuant to General Statute §106-549.35 (c), has the authority to assess civil penalties in this matter. The authority has been delegated to Mr. W. Alan Wade, Director, Meat and Poultry Inspection Division by the Commissioner of Agriculture pursuant to General Statute § 143B-10(a).

II. DECISION

A. As required by General Statute § 106-549.35 (c) in determining the amount of the civil penalty, I have considered the degree and extent of harm caused by the violation of General Statutes § 106-549.17 and 106-549.23.

Accordingly Mr. Harold R. Newby is assessed a civil penalty of:

\$8,000.00 for violating General Statutes § 106-549.17 and 106.549.23

\$8,000.00 TOTAL AMOUNT ASSESSED.

June 30, 2014

Date

W. Alan Wade

W. Alan Wade

Meat and Poultry Inspection Division