



Steve Troxler
Commissioner

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

W. Alan Wade
State Director

May 29, 2013

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

EL Milagro
Mr. Jaime Vasquez
527 South Broadway Street
Forest City, NC 28043

**RE: CIVIL PENALTY ASSESSMENT FOR VIOLATIONS
OF THE MEAT INSPECTION LAW
G.S. § 106-549.23**

Dear Mr. Jaime Vasquez:

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.

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
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) 733-0926. 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, NCDA&CS reserves the right to assess additional civil penalties in the future or take other enforcement action against you.

Your attention to this matter is appreciated.

Sincerely,

W. Alan Wade

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

WAW:pr

Attachments: Assessment Document

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

STATE OF NORTH CAROLINA
COUNTY OF RUTHERFORD

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

IN THE MATTER OF)

El Milagro)

FOR VIOLATIONS OF THE N.C. COMPULSORY)
MEAT INSPECTION LAW)
G.S. § 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 of North Carolina Department of Agriculture and Consumer Services (NCDA&CS) makes the following:

I. FINDINGS OF FACTS:

- A. On April 4, 2013, NCDA & CS, Meat and Poultry Inspection Division received information from the Georgia Department of Agriculture that non-inspected/misbranded pork sausage (chorizo) was observed at Carniceria El Progreso # 9, 2277 Chamblee Tucker Road, Chamblee, Georgia being placed in a truck with the identification “El Milagro – North Carolina”. Food Compliance Officers Ray Sloan and Percy Russell (hereinafter FCO Sloan and FCO Russell, respectively”) visited El Milagro, 527 South Broadway Street, Forest City, NC.
- B. FCO Russell and FCO Sloan spoke with Mr. Jaime Vasquez (hereinafter Mr. Vasquez, respectively), who identified himself as the owner and operator of El Milagro.
- C. FCO Russell and FCO Sloan inspected goods being offered to the general public for sale at El Milagro and discovered that some of the meat products being offered for sale lacked required labeling, rendering them misbranded.
- D. FCO Russell and FCO Sloan surveyed all of the inventory of meat products on hand and found non-inspected/misbranded (no NCDA or USDA mark of inspection or required labeling) pork sausage (chorizo).
- E. FCO Russell and FCO Sloan NC detained and photographed one (1) plastic container weighing approximately 23 pounds of the above-referenced products, comprising the entire inventory on hand of such meat products at El Milagro.
- F. Mr. Vasquez informed FCO Russell and FCO Sloan that he had purchased the non-inspected/misbranded packages of meat product from Carniceria El Progreso # 9, 2277 Chamblee Tucker Road, Chamblee, Georgia and transported it to his store (El Milagro) for the sole purpose of resale to the general public.

- G. Mr. Vasquez provided a receipt or invoice for the above referenced meat products.
- H. Mr. Vasquez stated that he repackaged the non-inspected/misbranded pork chorizo sausage into consumer size plastic bags that his customers purchased from him, which did not contain a NCDA or USDA mark of inspection.
- I. El Milagro operates under county inspection.
- J. On April 22, 2013, FCO Russell and FCO Sloan issued El Milagro an on-site cease and desist letter prohibiting the sale of misbranded meat products.
- K. The NCDA & CS, MPID, had previously found Mr. Vasquez, owner and operator of the El Milagro, 527 South Broadway Street, Forest City, NC to be violating the North Carolina Compulsory Meat Inspection Law and/or the North Carolina Poultry Products Law on October 29, 2007.
- L. The North Carolina Department of Justice issued El Milagro, 527 South Broadway Street, Forest City, NC, a Letter of Warning for the transporting, processing, storing, offering for sale and selling of misbranded meat products on December 13, 2007.

II. CONCLUSIONS OF LAW

- A. El Milagro found to be transporting, processing, storing, offering for sale and selling non-inspected/misbranded meat products in violation of General Statutes 106-549.23 and may be assessed a civil penalty of up to five thousand (\$5,000.00) dollars per violation under G.S. §106-549.35(c).
- B. The Commissioner of Agriculture, pursuant to G.S. §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 G.S. §143B-10(a).

III. DECISION

As required by G.S. §106-549.35(c) and in determining the amount of the civil penalty, I have considered the degree and extent of harm caused by the violation of G.S. § 106-549.23, 106-549.24 and 106-549.56.

\$1500.00 for violating G.S. § 106-549.23
\$1500.00 TOTAL AMOUNT ASSESSED.

May 29, 2013
Date

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