



**Steve Troxler**  
Commissioner

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

**Dr. Beth Yongue**  
State Director

June 30, 2017

**CERTIFIED MAIL**  
**RETURN RECEIPT REQUESTED**

Mrs. Elizabeth McMillan Back & Mrs. Priscilla McMillan  
McButt's Country Sausage, LLC  
7362 Tabor Church Road  
Fayetteville, North Carolina 28312

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

Dear Mrs. Back,

Pursuant to North Carolina General Statutes §§ 106-549.35(c) and 106-549.23 (3) (a) & (b), 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 Notice of Violations and Assessment of Civil Penalty 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 Dr. Beth Yongue, 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  
Dr. Beth Yongue, 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,

Dr. Beth Yongue  
Director, Meat & Poultry Inspection Division

MEY:dm

Attachments: Assessment Document  
CC: Mr. Chris McLennan, Assistant Attorney General  
Joe Reardon, Assistant Commissioner  
Tina Hlabse, General Counsel

STATE OF NORTH CAROLINA  
COUNTY OF CUMBERLAND

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

IN THE MATTER OF

Mrs. Elizabeth McMillan Back & Mrs. Priscilla  
McMillan/McButt's Country Sausage, LLC

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

)  
)  
) NOTICE OF VIOLATIONS  
) AND ASSESSMENT OF  
) CIVIL PENALTY  
)  
)

Acting pursuant to North Carolina General Statutes §§ 106-549.35(c) and 106-549.23 (3) (a) & (b), Dr. Beth Yongue, Director, Meat and Poultry Inspection Division (MPID) of the North Carolina Department of Agriculture and Consumer Services (NCDA&CS) makes the following:

**I. FINDINGS OF FACTS:**

- A. On May 26, 2016, Mrs. Elizabeth McMillan Back owner/operator of McButt's Country Sausage, 7362 Tabor Church Road, Fayetteville, North Carolina 28312 contacted the NCDA & CS, MPID to inquire on how to obtain State (NCDA) or Federal (USDA) inspection.
- B. On May 26, 2016, NCDA & CS, MPID, then Assistant State Director Dr. Beth Yongue spoke with Mrs. Elizabeth McMillan Back on the telephone and fully explained the meat inspection laws on processing and wholesaling pork sausage. Dr. Beth Yongue also mailed Mrs. Back an inspection package on how to meet all requirements of the North Carolina Department of Agriculture and Consumer Services, Meat and Poultry Inspection Division.
- C. On June 3, 2016, NCDA & CS, MPID, Area Supervisor John Dalton conducted a courtesy review for inspection at McButt's Country Sausage, LLC, 7362 Tabor Church Road, Fayetteville, North Carolina 28312. Mrs. Elizabeth McMillan Back requested the courtesy review to have the NCDA & CS, MPID, rules and regulations/requirements for wholesaling meat products explained and how McButt's Country Sausage, LLC could come under and obtain NCDA inspection.
- D. On June 10, 2016, NCDA & CS, MPID, Area Supervisor John Dalton mailed a letter to Mrs. Elizabeth McMillan Back, owner/operator of McButt's Country Sausage, LLC. This letter listed the facility improvements required for NCDA inspection that were discussed with Mrs. Back during the courtesy review conducted on June 3, 2016.
- E. This investigation is a result of anonymous information received alleging that there was a non-inspected/illegal processing operation being conducted at 7362 Tabor Church Road, Fayetteville, N.C.
- F. The North Carolina Department of Agriculture & Consumer Services (NCDA & CS), Meat and Poultry Inspection Division (MPID), Food Compliance Officer Marvin Lackman (hereinafter, FCO Lackman, respectively), conducted surveillance at the property of Mrs. Elizabeth McMillan Back and Mrs. Priscilla McMillan (hereinafter, Mrs. Back and Mrs. McMillan) located at 7362 Tabor Church Road, Fayetteville, NC and observed the property location of the alleged non-inspected/illegal processing facility.

- G. On March 30, 2017, NCDA & CS, MPID Food Compliance Officer Marvin Lackman, while posing as a member of the general public, telephonically purchased six (6) packages of misbranded/non-inspected pork sausage products (Italian Meatballs, McShorties (Med.), McShorties, McDevils, Italian Links and Game Day Dogs) weighing approximately ten (10) pounds total from McButt's Country Sausage, LLC owned/operated by Mrs. Elizabeth McMillan Back and Mrs. Priscilla McMillan.
- H. On April 1, 2017, Mr. Joe Back (husband of Mrs. Elizabeth McMillan Back) delivered a box of misbranded/non-inspected pork sausage products (which did not contain the NCDA (State) or USDA (Federal) mark of inspection or required labeling) that was telephonically ordered on March 30, 2017 by NCDA & CS, MPID, Food Compliance Officer Marvin Lackman. FCO Lackman paid a total of \$59.00 cash for the misbranded/non-inspected meat products.
- I. On May 2, 2017, NCDA&CS, MPID, Food Compliance Officers Jake Groce and Daniel Moody Jr. (hereinafter FCO Groce and FCO Moody) visited McButt's Country Sausage, LLC, 7362 Tabor Church Road, Fayetteville, North Carolina 28312, to perform a planned compliance review.
- J. FCO Groce and FCO Moody spoke with Mrs. Priscilla McMillan who identified herself as one of the owners/operators of the property and McButt's Country Sausage, LLC.
- K. FCO Groce and FCO Moody observed misbranded/non-inspected (no mark of inspection or required labeling) frozen Pork Sausage, bearing no required labeling and no N.C.D.A. (State) or U.S.D.A. (Federal) mark of inspection, being offered for sale to the general public.
- L. An estimated 150 pounds of misbranded/non-inspected meat products were N.C. Detained (Tag Number 4410) and photographed.
- M. McButt's Country Sausage, LLC does not operate under County, State (NCDA), or Federal (USDA) inspection.
- N. In a signed statement dated May 2, 2017, Mrs. Priscilla McMillan, owner/operator of McButt's Country Sausage, LLC, stated that the raw meat products (Boston Butts) were purchased in large packages/boxes, which contained the USDA (Federal) mark of inspection and required labeling from Kinlaw's Supermarket, 1802 Sapona Road, Fayetteville, North Carolina 28312 and Dillon's Provision Co., Inc., 408 North 1<sup>ST</sup> Avenue, Dillon, South Carolina 29536.
- O. Mrs. Priscilla McMillan and Mrs. Elizabeth McMillan Back further stated that her family has remodeled an out-building located behind her home into a processing facility equipped with a stainless-steel sink, stainless-steel tables, a small Hobart Grinder, and two (2) commercial freezers. Mrs. McMillan would remove and open the packages of Boston Butts, cut them up and placed the raw meat into the grinder along with different seasoning to prepare/formulate different varieties of sausage and sausage balls.
- P. Mrs. McMillan and Mrs. Back then processed, formulated and packaged the misbranded/non-inspected pork sausage into clear plastic packages.
- Q. Mrs. McMillan and Mrs. Back placed the misbranded/non-inspected pork sausage into the establishment's retail freezer where the misbranded/non-inspected pork sausage were offered for sale and sold to the general public without the required labeling or the NCDA (State) or USDA (Federal) mark of inspection.
- R. Mrs. Priscilla McMillan stated in a signed statement dated May 2, 2017 that she processed, stored, transported, offered for sale and sold the misbranded/non-inspected meat products (Pork Sausage) to the general public.

II. CONCLUSIONS OF LAW

- A. Mrs. Elizabeth McMillan Back & Mrs. Priscilla McMillan/McButt's Country Sausage, LLC were found to be processing, storing, transporting, offering for sale and selling misbranded/non-inspected meat products to the general public in violation of General Statute §106-549.23 and may be assessed a civil penalty of up to five thousand (\$5,000.00) dollars per violation under North Carolina General Statutes § 106.549.35 (c).
- B. The Commissioner of Agriculture, pursuant to North Carolina General Statute §106.549.35 (c), has the authority to assess civil penalties in this matter. This authority has been delegated to Dr. Beth Yongue, Director, Meat and Poultry Inspection Division by the Commissioner of Agriculture pursuant to North Carolina General Statute § 143B-10(a).

III. DECISION

- A. As required by North Carolina 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 § 106-549.23.

Accordingly, Mrs. Elizabeth McMillan Back & Mrs. Priscilla McMillan/McButt's Country Sausage, LLC is assessed a civil penalty of:

\$500.00 for violating § 106-549.23(3)(a) – (Misbranded/Non-Inspected Meat)

\$500.00 for violating § 106-549.23(3)(b) – (Misbranded/Non-Inspected Meat)

\$1,000.00 TOTAL AMOUNT ASSESSED.

June 30, 2017  
Date

Dr. Beth Yongue

Dr. Beth Yongue  
Director, Meat and Poultry Inspection Division