



Steve Troxler
Commissioner

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

Donald H. Delozier
State Director

September 28, 2009

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Mr. Kenneth Ray Wiley
5326 Akron Lane
Wilson, NC 27893

RE: CIVIL PENALTY ASSESSMENT FOR VIOLATIONS
OF THE MEAT INSPECTION LAW
G.S. § 106-549.23 and 106-549.24

Dear Mr. Kenneth Ray Wiley,

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. Donald H. Delozier, Director, Meat & Poultry Inspection Division, who may be contacted by telephone at (919) 733-4136. 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
Mr. Donald H. Delozier, 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

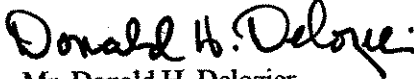
Any questions about filing a petition may be directed to the Clerk of OAH by telephone (919) 733-0926. You must serve NCDA&CS by mailing a copy of the petition to:

Mr. Ray Starling
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,


Mr. Donald H. Delozier
Director, Meat & Poultry Division

DHD:aw

Attachments: Assessment Document

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

- E. On June 8, 2009 two (2) additional random compliance reviews of retail stores were conducted in the Wilson County and Goldsboro areas by NCDA & CS, MPID Food Compliance Officers C.O. Moody and Philyaw. C.O.'s Moody and Philyaw observed, NC Detained and photographed 40 (2 ounce) packages of misbranded (non-inspected) and fraudulently labeled (containing an unauthorized NCDA mark of inspection Est. #P-255) cooked pork skins being offered for sale to the general public.
- F. The owners/operators of the aforementioned 2 retail locations stated in signed Shipper's or Receiver's Certifications that they purchased the misbranded and fraudulently labeled cooked pork skins from Mr. Kenneth Ray Wiley and provided purchasing invoices to C.O.'s Moody and Philyaw to that effect.
- G. On June 18, 2009 NCDA & CS, MPID Food Compliance Officers C.O.'s Moody and Philyaw, accompanied by NCDA & CS, MPID Food Compliance Supervisor Alan Wade, interviewed Mr. Kenneth Ray Wiley in reference to his selling of misbranded and fraudulently labeled cooked pork skins to retail stores. Mr. Kenneth Ray Wiley stated in a signed statement dated June 18, 2009 that he sold misbranded (non-inspected) and fraudulently labeled (containing an unauthorized NCDA mark of inspection Est. #P-255) cooked pork skins on approximately four separate occasions to various retail stores during a three month period.
- H. On June 18, 2009, Mr. Kenneth Ray Wiley was issued an on site Cease and Desist letter for the selling of misbranded (non-inspected) and fraudulently labeled (containing an unauthorized NCDA mark of inspection Est. #P-255) cooked pork skins to various retail stores.

II. CONCLUSIONS OF LAW

- A. Kenneth Ray Wiley was found to be processing, transporting, offering for sale and selling misbranded (non-inspected) and fraudulently labeled (containing an unauthorized NCDA mark of inspection) cooked pork skins in violation of General Statutes 106-549.23 and 106-549.24 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. Donald H. Delozier, Director, Meat and Poultry Inspection Division by the Commissioner of Agriculture pursuant to G.S. §143B-10(a).

Kenneth Ray Wiley

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III. DECISION

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

Accordingly Kenneth Ray Wiley is assessed a civil penalty of:

\$ 1,000.00 for violating G.S. § 106-549.23 and 106-549.24
\$ 1,000.00 TOTAL AMOUNT ASSESSED.

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Sept. 28, 2009
Date

Donald H. Delozier
Mr. Donald H. Delozier, Director
Meat and Poultry Inspection Division

CONTINUATION SHEET
C&E-1a (page 2)
Kenneth Ray Wiley

PREDICATION

This investigation is a direct result of information received by the North Carolina Department of Agriculture & Consumer Services, Meat and Poultry Inspection Division which alleged the possible illegal processing and selling of meat products to the general public.

SYNOPSIS OF FACT

During five (5) random compliance reviews conducted on June 4, 2009 in the Wilson County area, North Carolina Department of Agriculture (N.C.D.A.) & Consumer Services (C.S.), Meat and Poultry Inspection Division (M.P.I.D.), Food Compliance Officer Daniel E. Moody Jr. observed, N.C. Detained (Tags #3057, 3059 and 3844) and photographed 147 bags weighing approximately 294 ounces of "Wiley's Pork Skins" which contained a N.C.D.A mark of inspection (Est. #P-255) and required labeling. Further investigation revealed that the N.C Detained "Wiley's Pork Skins" were non-inspected and fraudulently labeled with a N.C.D.A mark of inspection (Est. #P-255). Signed Shipper's or Receiver's Certifications were obtained from three retail locations where the non-inspected and fraudulently labeled pork skins were being offered for sale to the general public. In the signed Shipper's or Receiver's Certifications the owners/operators of the three retail establishments stated that Mr. Kenneth Ray Wiley (employee of Wiley Pork Skins) would deliver the non-inspected and fraudulently labeled pork skins to their establishments approximately one to two times a month. The three retail establishments did provide invoices for the purchases of the non-inspected and fraudulently labeled pork skins purchased during the months of April, May and June of 2009 from Mr. Kenneth Ray Wiley.

SEE 2ND CONTINUATION SHEET