



DEPARTMENT OF HEALTH & HUMAN SERVICES

*Silva*  
New York District

Food & Drug Administration  
300 Pearl Street, Suite 100  
Buffalo, NY 14202

February 9, 2001

**WARNING LETTER NYK 2001-44**

**CERTIFIED RETURN RECEIPT REQUESTED**

Daniel E. Curtin, Partner  
Robert F. Curtin, Partner  
Thomas A. Curtin, Partner  
John M. Curtin, Partner  
Curtin Dairy, LP  
9815 Shaul Road  
Cassville, New York 13318

Dear Sirs:

An investigation was conducted at your Cassville, New York dairy farm by Investigator William P. Chilton, November 27, 28 and December 12, 2000. The investigation confirmed you offered two cows for sale for slaughter as food in violation of Sections 402(a)(2)(C)(ii) and 402(a)(4) of the Federal Food, Drug, and Cosmetic Act (the Act); and you caused animal drugs to become adulterated within the meaning of Section 501(a)(5).

On or about August 21, 2000 you delivered a cow bearing barn tag 937 and ear tag 23VWX1167 to [REDACTED]. The cow was further identified with sale tag 875. The cow was purchased by [REDACTED]. The cow was shipped to [REDACTED] and slaughtered on August 22, 2000. A USDA sample of the kidney from this cow revealed the presence of the drug, streptomycin, at a level of 2.36 parts per million (PPM). The presence of any level of streptomycin in the edible tissues of a dairy cow causes the food to be adulterated within the meaning of Section 402(a)(2)(C)(ii) of the Act.

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On or about July 6, 2000 you delivered a cow for slaughter bearing ear tag 21ZCH4819 to [REDACTED]. The cow was further identified with sale tag 922. USDA analysis of tissue samples revealed the presence of the drug, streptomycin, in the kidney and liver at a level of 13.45 PPM and 1.08 PPM, respectively. The drug, penicillin, was found in the kidney at a level of 0.16 PPM- a level which exceeds the tolerance of 0.05 PPM, Code of Federal Regulations (CFR) 556.220. The presence of these drugs causes the food to be adulterated within the meaning of Section 402(a)(2)(C)(ii) of the Act.

Our investigation found that you hold animals under conditions which are so inadequate that diseased animals and/or medicated animals bearing potentially harmful drug residues are likely to enter the food supply. For example, you lack a system for assuring that drugs are used in a manner not contrary to label instructions, and for assuring animals medicated on your farm have been withheld for slaughter for appropriate periods of time to permit depletion of potentially hazardous drug residues from edible tissues. Foods for animals held under such conditions are adulterated within the meaning of Section 402(a)(4) of the Act.

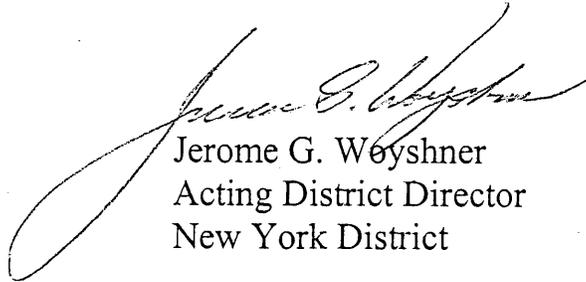
Our investigation revealed that you adulterated the drugs penicillin G procaine and penicillin-dihydrostreptomycin within the meaning of Section 501(a)(5) of the Act when you used the drugs in an extra-labeled manner without veterinary supervision. Your use of these drugs in dairy cows at higher than labeled dosage causes the drug to be unsafe for use.

You should take prompt action to prevent any subsequent violations and to establish procedures whereby such violations do not recur. Failure to achieve prompt corrective action may result in regulatory action without further notice. This may include seizure and/or injunction.

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The above is not intended to be an all-inclusive list of violations. As a producer of animals offered for use as food, it is your responsibility to assure your operations are in compliance with requirements of the Act. As a dairy farmer, you are the individual who introduces or offers for introduction into interstate commerce the adulterated animal. It is not necessary for you to personally ship an animal into interstate commerce to be responsible for a violation of the Act. The fact that you caused the adulteration of the animal that was sold and subsequently offered for sale to an auction barn and/or slaughterhouse that ships in interstate commerce is sufficient to hold you responsible for violation of the Act.

Please notify this office in writing with fifteen (15) days, of the steps you have taken, or intend to take, to prevent a recurrence of these or similar violations. Your response should be directed to William J. Thompson, Compliance Officer, U.S. Food and Drug Administration, at the above address.



Jerome G. Weyshner  
Acting District Director  
New York District