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Consumer and Corporate Affairs Canada

Consommation et Corporations Canada

Consumer Products Compliance Manual

CONSUMER PRODUCTS

COMPLIANCE MANUAL

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LIST OF REVISIONS

CHAPTER	PAGE #	NATURE OF CHANGE
3	3-3	Procedural change to require District Manager's "concurrence" rather than "signature"
3	3-14	Expansion of contents of the C type letter to include the excerpts of the applicable legislation

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INTRODUCTION

This manual has been assembled to provide Consumer Products Inspectors with the compliance policies of Consumer Products Sub-Activity in one manual.

The manual has been prepared using Chapter 1, Policy No. 1-10 of the Bureau of Consumer Affairs Policy Manual as the source reference document. Each chapter represents separate compliance strategies used by the Consumer Products Sub-Activity and the policy and procedures to be followed when using these compliance strategies. They have been reproduced from the various policy and procedures manuals used by this sub-activity, all of which you have access to in your respective regions and districts.

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Note: Uniform Enforcement Guidelines are part of the compliance policy and are contained in each of the Consumer Products technical manuals.

Policy and procedures related to prosecution are contained in the Bureau of Consumer Affairs Prosecution Manual.

RECORD OF AMENDMENTS

NO.	DATE OF AMENDMENT	DATE ENTERED	ENTERED BY
1	July 1988		
	July 1988		

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COMPLIANCE POLICY

COMPLIANCE POLICY:

1.0 BACKGROUND:

This circular outlines in general terms the compliance policy peraining to the field administration of the several Acts and Regulations in the Consumer Affairs Activity. Instructions contained in manuals, directives, etc., issued to guide the enforcement of specific Acts and Regulations may further elaborate on this policy and should be referred to in specific situations.

2.0 PURPOSE OF COMPLIANCE PROGRAM

The purpose of the Consumer Affairs compliance program is:

To reduce the incidence of fraud, deception, error and physical and health hazards in the production, importation, distribution, packaging, advertising and sale of consumer goods; to reduce the incidence of fraud, deception and error in the distribution and sale of various forms of energy such as electricity, gas and oil; to enhance the consumer's ability to identify and differentiate among products through the provision of accurate and mandatory product information.

3.0 COMPLIANCE OBJECTIVES

The objectives of the compliance programs are:

a. To realize the general objectives of the legislation, which are:

- protection against economic loss and hazards to health and safety;

- safeguard against unfair competition in the marketplace by:

  . ensuring the accuracy of weighing and measuring devices used in trade;

  . ensuring the accuracy of measurement of commodities, energy and services;

  . ensuring the required quality, labelling, packaging, advertising and composition of food products;

- preventing fraud and deception with respect to the preparation and sale of food and non-food products;

- ensuring the correct labelling and advertising of the textile fibre content of textile articles;

- preventing the advertising, sale and importation of products which may constitute a danger to the health or safety of consumers;

- ensuring the disclosure of full and accurate labelling information for all regulated consumer goods.

b. To ensure consistent and uniform application of the law.

c. To ensure an approach to enforcement that is logical, consistent and fair, and sufficiently stringent to deter willful contraventions of the law.

d. To maximize compliance at minimum cost.

The achievement of these objectives will require careful consideration of technical, legal and other facts depending on the objectives and nature of legislation being enforced, and the structure of the trade sector involved. The compliance policy contained herein must, therefore, be regarded as general guidelines subject to elaboration, consistent with achievement of the above purpose and objectives, by procedural guidelines established for the enforcement of individual legislative programs and sub-programs by the functional branches responsible.

4.0 ELEMENTS OF THE COMPLIANCE PROGRAM:

a. Information:

The elements of this activity consist of:

- issuing trade information bulletins to traders to explain the Acts and Regulations enforced by the Department and to explain voluntary compliance programs monitored by the Department for products which could be regulated under the legislations;

- educating traders by means of seminars, etc., and at the time of establishment inspections, concerning legislative requirements, and issuing information letters to traders when minor technical violations are found;

- ensuring that regulated industry is informed of new or proposed legislation by means of publication in the Canada Gazette, visits, seminars, meetings, etc;

- issuing procedures on the use, testing, calibration and proper utilization of weighing and measuring devices;

- Informing consumers about specific products and services by means of communiqués, pamphlets, appearances on radio and TV, participation in information booths, etc.

b. Enforcement:

The elements of this activity consist of:

- carrying out inspections of establishments, and products and weighing and measuring devices therein;

- examining labels and advertisements for regulated products;

- determining the extent of compliance with the law;

- encouraging trader correction of violations;

- taking more stringent enforcement action, when required.

5.0 ENFORCEMENT STRATEGIES:

The following enforcement strategies are to be regarded as general guidelines, subject to elaboration by procedural guidelines issued for specific legislative programs. Circumstances will, to a large extent, determine the choice of enforcement options to deal with specific situations of non compliance. More than one option can be used to handle the same situation:

a. Continuation of Trade with correction:

For such violations as minor technical labelling violations, compliance (e.g. label change) within a reasonable time. The nature of the product, the extent and nature of distribution, previous history of compliance of the trader, and the practicality of correction are among the factors to be considered in determining the time factor.

b. Discontinuation of Trade:

- Except for minor technical violations as provided for in (a) above, any violative product found at the time of inspection is either to be corrected by the trader during the inspection by the adoption of proper procedures for the use of devices, the repair or replacement of devices, regrading, repacking, reprocessing, relabelling, or is to be removed from sale. The latter can include return to supplier, destruction, voluntary forfeiture to the Crown or diversion to other uses (e.g. violative food products diverted to plant cafeteria or in-store bakery if the violations do not compromise health or safety).

  The option used will depend on the circumstances, e.g. the degree of control which must be exercised over the violative product, the amount of waste which may be involved (as with product destruction), and the legislative provisions (only the Food and Drugs, Consumer Packaging and Labelling, and the Weights and Measures Acts provide for voluntary forfeiture to the Crown). Product correction or removal from sale does not preclude warning, show cause hearing between the Department and the trader, or prosecution action.

- Seizure of product, or removal of devices from trade and sealing, may be necessary, particularly where there is evidence that products/devices which are removed from sale/use might otherwise be sold or used in trade. Such action is the use of a power provided by the legislation, by which the trader is denied the free use of his product/device. It would likely be used for such violations as:

  . the product is dangerous to health or safety/the compliance history of the trader is such that voluntary compliance is unlikely and the nature of the infraction warrants seizure/the extent of economic fraud or the volume of the product involved is substantial/non- compliance gives a trader an unfair advantage over his competitors. Seizure or removal of device from trade and sealing, does not preclude warning, show cause hearing, or prosecution action.

c. Discontinuation of Trade, With Recall:

If it is felt desirable to clear all or certain segments of the marketplace of violative products because the potential of health hazard or economic loss is widespread, product recall will be negotiated with the trader and, depending on the extent to which product is to be recalled (from the consumer, retailer, primary

distributor(s)), relevant trader records must be examined to determine product distribution and other relevant factors. If the trader refuses to recall the product, the Department may notify traders that the violative product should be removed from sale and that failure to do so could result in further action, including subsequent inspections and seizure action.

Except in the Electricity and Gas sub-activity where there are regulations making powers which, if used, can result in defective devices being removed from service, none of the legislation enforced by the Consumer Affairs Activity provides the power of mandatory product recall.

A product recall does not preclude warning, show cause hearing, seizure, or prosecution action.

d. Prosecutions and Warnings:

The above enforcement strategies, which physically deal with violative product(s), do not, as noted, preclude warning, show cause hearing, or prosecution action. Nor do these actions depend on whether the offence was committed deliberately.

Most of the offences under the legislation administered by the Consumer Affairs Activity are strict liability offences. That is, the Crown is not required to prove that the accused committed the offense deliberately/recklessly/negligently. Rather, the Crown must prove that the accused committed the offense. The accused may be acquitted if he proves that he took all steps reasonable in the circumstances to avoid committing the offense.

While the Crown does not have to prove intent in the committing of an offence, the Department generally institutes prosecution action when there is evidence of intent to commit the offence or when the offence constitutes a danger to the health or safety of the public.

Prosecution action may be warranted in the following types of situations:

- offences which represent serious danger to the health as safety of the individual, e.g. selling a hazardous product banned under Part I of the Schedule to the Hazardous Products Act;

- clearly willful acts because of their very nature, e.g. interfering with an inspector, selling horse meat as beef, adjusting a scale to that it is inaccurate;

- cases involving repeat offenders;

- situations where a high level of public awareness to a problem has been created, and warning is therefore not necessary, e.g. scale of short measure cords of firewood, given the amount of general publicity on this matter.

Prosecution action may be warranted in the following types of situations, depending on whether there is evidence of intent:

- Willful and unwillful acts, depending on the facts of the case. A retailer might deliberately use a scale that is inaccurate, sell vegetables marked one grade better than they really are or add too much filler to a meat by-product and then again he might do so unintentionally. How these acts are dealt with depends on whether:

  i) there is clear evidence that it was done deliberately:

     Prosecution warranted, without need for warning.

  ii) there is no evidence it was done deliberately:

     Warning, followed by prosecution if offence occurs again within a 3-year period. If the warning is verbal, a written warning (pointing out that the Department will consider prosecution action in the future if infractions of a similar nature occur) could be issued before prosecution action, depending on the circumstances. Only one verbal warning is to be issued. See Section 7 of this policy for examples of the type of warning letters.

     A show cause hearing between the Department and the trader, can depending on the circumstances, be held when all evidence has been gathered and the Department is ready to proceed with prosecution action; if the firm does not agree to comply, prosecution action is initiated. Alternatively, a show cause hearing can be used to reinforce the impact of warning letters; the trader is asked for a commitment as to corrective action and is informed that continued failure to comply may lead to more stringent enforcement action.

6.0 ADMINISTRATION:

a. The recommendation for prosecution action will originate with the inspector and all documentation pertinent to the case will be developed at the district or/and regional level.

Administration - Federal Law:

Prosecution recommendations approved by the District Manager will be referred to the Regional Manager who will consult with the Regional Director as to the processing of the case. The decision to recommend prosecution under federal law will be delegated to the Regional Director with the exception of the following:

- all prosecutions being initiated within the first two years of the proclamation of an Act or the establishment of a new or revised Regulation thereunder must be referred to the appropriate Branch Director;

- for prosecution action initiated under any section of an Act for which no precedent has been established in the region, the region must consult the appropriate Branch Director;

- for all prosecutions involving exceptional circumstances, the region must consult the appropriate Branch Director.

Administration - Provincial Law:

Regional Directors will refer recommendations for prosecution under provincial laws to the appropriate provincial department administering the Act or Regulations concerned, or to Provincial Crown Counsel if the province agrees to this method of proceeding.

b. In those situations where problems at the manufacturing, import, wholesale and distribution levels of trade occur through either a change in or a misunderstanding of the Regulations, and have led to the widespread distribution of large quantities of product, any decision to temporarily suspend inspection action pending analysis must be agreed to by the Assistant Deputy Minister, Consumer Affairs Bureau.

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CONSUMER AND
TRADER EDUCATION

CONSUMER AND TRADER EDUCATION

POLICY

The Bureau policy regarding Consumer and Trader Education is contained in Section 1.10 of Chapter 1 of the Bureau of Consumer Affairs Policy Manual. It is stated as follows:

> issuing trade information bulletins to traders to explain the Acts and Regulations enforced by the Department and to explain voluntary compliance programs monitored by the Department for products which could be regulated under the legislation;
>
> educating traders by means of seminars, etc., and at the time of establishment inspections, concerning legislative requirements, and issuing information letters to traders when minor technical violations are found;
>
> ensuring that regulated industry is informed of new or proposed legislation by means of publication in the Canada Gazette, visits, seminars, meetings, etc;
>
> issuing procedures on the use, testing, calibration and proper utilization of weighing and measuring devices;
>
> informing consumers about specific products and services by means of communiqués, pamphlets, appearances on radio and TV, participation in information booths, etc.

Consumer and Trader Education is further defined in the Consumer Products Management Information System Chapter 1(a) Works Elements which states:

> Time spent on the preparation and delivery of seminars, meetings and material for traders, trade organizations, consumers and consumer organizations and other interested parties. Includes preparing, setting up, manning and taking down displays, information booths, etc. Does not include time spent on trader education during an inspection or visit unless the sole purpose of the visit was for trader education.

NOTE: This definition was developed for time-reporting purposes only.

CHAPTER 2 CONSUMER AND TRADER EDUCATION

DEFINITION

Consumer and Trader Education is the transmittal of information in any media to achieve a given objective. Education can take on many different forms from what is normally perceived as formal teaching. A simple conversation on a specific topic can become a training tool, if prepared and presented with a direct objective in mind.

RATIONALE

Consumer and Trader Education is a strategy used in Consumer Products to inform the public and the trade of our role in the marketplace and can be effective in conjunction with actual inspections in achieving compliance. This can be of direct benefit to the department with regard to economical use of resources.

PURPOSE

How the public perceives our department is a very important factor. Consumer and Trader Education allows us to achieve the following objectives:

- Elevate the awareness of the Department's role
- Aid in enhancing the Department's image
- Informing the public and trade of departmental initiatives
- Gaining voluntary compliance
- Obtaining feedback on policy and programs
- Provide direct efficiency to the Department

BENEFITS DERIVED FROM CONSUMER AND TRADER EDUCATION

By achieving the objectives, the following direct benefits can be derived:

<u>Elevate the awareness of the Department's role</u>

- Informing trader and consumer groups of the objectives of the Department
- Fosters better understanding of Department's mandate
- Allows groups to understand departmental procedures and policies
- Improve consumer knowledge and awareness

Aid in enhancing the Department's image

Encourages harmonious relationships

Makes the department available to the public

Informing the public and trade of Departmental initiatives

Aids in the introduction of new departmental programs

Advanced compliance with regulations

Achieves better compliance in the marketplace

Gaining voluntary compliance

Time savings on inspection and enforcement

Fosters better government and trader relationship

Increases general level of industry knowledge

Obtaining feedback on policy and programs

Needs of various target groups can be determined

Objections to current regulations can be voiced

Positive or negative effects of new directions can be discussed

Provide direct efficiency to the Department

Enforcement time savings -- i.e., contact with larger groups than on a one-to-one basis

Direct monetary savings -- i.e., educational programs cost less than other enforcement actions, future compliance reduces cost to consumers and traders in label and packaging revisions.

Able to utilize resources more effectively -- i.e., concentration on problem areas and in-depth inspections.

POSSIBLE RECEIVERS OF CONSUMER AND TRADER EDUCATION PROGRAMS

This list was developed to assist in identifying various target groups. As you can appreciate, this list can be expanded considerably, depending on group requests and/or your own personal contacts.

1. New establishment owners/managers

   clothing dealers
   jewellers
   food stores
   non-food establishments

2. Establishment managers/department heads

   department stores
   chain stores
   large companies

3. Citizen groups

   consumer groups
   consumer associations
   service clubs
   fraternal organizations
   community groups

4. Educational institutions

   trade schools
   university students
   high school students
   junior high school students, including staff and teachers
   community colleges

5. Local business groups

   Chambers of Commerce
   Boards of Trade
   business bureau
   municipal development units

6. Trade associations

   jewellers association
   retailers association
   restaurant association
   bakery council
   manufacturers' association

7. Suppliers

   label manufacturers
   printers
   packaging material suppliers
   label designers

8. Media

   various public relation activities
   television
   radio
   newspapers

9. Other levels of Government and Departments

   Municipal
   Provincial
   Foreign Countries

OBJECTIVE

Identifying the objective of the Consumer and Trader Education Program to be presented is essential.

Know what you want to accomplish in giving your presentation. What do you want to communicate to your group or individual? Consider what degree of understanding you want them to have with regard to the subject matter covered. Concern yourself with what attitude you want them to have at the conclusion of your presentation. Establish what you expect them to do with the information. Possibly you want them to relay the information to others, use it on a repeat basis, alleviate or correct a specific problem, or make them better informed.

It isn't always easy, but it is advantageous to know whether you're dealing with professionals in your own or other disciplines, or whether your group consists of a cross section of the population or highly-educated individuals. You should also pre-determine, if possible, the attitude your group may have toward your subject. You must know your material thoroughly so you can present it effectively and in depth. It is imperative that you be able to respond to any and all questions arising from your presentation. If you are unable to recall or respond to a specific request, just advise them you will research the subject, and get back to them at a later time.

Factors affecting presentations

The first decision made is the type of presentation best suited to serve the purpose. Lecture only may be chosen for a number of reasons. You have control of the content, timing, and degree of group participation desired.

An example of this could be a limited question period at the end of your presentation, or requesting all enquiries be directed personally after the presentation has ended. You may decide to use the lecture and workshop approach. This can enable you to deliver your objective formally, and then reinforce your point in an atmosphere of group involvement. Media presentations may be used in dealing with topics of a general nature or a specific area. Use of media presentations can be advantageous in reaching larger groups or special sectors of the public. Examples of media usage could be for purposes of a product alert or product recall, press releases announcing proposed, new, or revised programs and/or services, media interviews, CCAC's own video presentations for cable T.V. distribution, Public Service Announcements, etc.

Personal contact may be employed to ensure confidentiality or to give information to an individual who will, in turn, relay it to his or her own group.

Types of Presentation

Lecture only

Media presentation

Lecture/Workshop

Personal contact (one-on-one)

General Circumstances Affecting Selection Criteria

Having selected your presentation format, you will have to take into account other factors concerning your presentation. One or all of the following conditions may be a deciding factor in structuring your programs:

Size of group (small 5 - 15) (medium 16 - 40) (large 41 or more)

Location of presentation

Suitability of premises -- size of location, facilities (blinds, electrical outlets, etc.)

Length of presentation -- fixed or flexible, desirable length to achieve maximum effectiveness

Presentation content -- technical, general, public relations

Specific group information request

Availability of materials

Effectiveness of material

Cost of material involved

Preparing a Presentation

Prepare an outline as detailed as you need to present it effectively. This would vary from a complete script for some people, to a mental outline for others. Be careful not to **read** a script -- this could make your presentation go flat. I wouldn't recommend a mental outline unless you are a most experienced and gifted speaker.

Your presentation should be divided into three sections:

a) Introduction

b) Body

c) Conclusion

The introduction should get the attention of the audience and clearly communicate the purpose of the talk. A dramatic example or story is one way of getting attention. Another is to convince the audience that they should listen.

The body of the presentation should present the material in proper sequence so the audience can understand it, and so it makes sense to them.

The conclusion should include a re-statement of the objective, and a summary of what was presented.

An old cliché states: "Tell 'em what you are going to tell 'em; tell 'em; and tell 'em what you told 'em". It describes introduction, body and conclusion. Many speakers have adopted this philosophy for their presentations. It's good for gaining understanding and remembering through repetition, but it would be bad if the repetition loses the audience. Therefore a variety in the way the material is presented is probably necessary, if this philosophy is applied.

Prepare all your audio-visual aids, including charts, slides, films, overhead transparencies and handouts. Remember that people usually understand better if they can see as well as hear.

Practice your Presentation

Displays

There are basically two different types of displays currently used by the Department: the static display and the manned display.

The static display incorporates the use of the modular, free-standing display units or hands on units. These are available from all regional offices and some district offices. This type of display utilizes the various panels depicting the activities and functions of the department. Static displays are unmanned, and only require limited attention if used in conjunction with a pamphlet distribution centre.

The second type of display is the manned display -- i.e., information booth or mall display. This type usually requires considerable attention and frequently incorporates the use of the display units along with exhibits and demonstrations of technical equipment and aspects of our inspection procedures.

In setting up any type of display, specific conditions must be taken into account. The location of the display should be chosen to achieve the optimum visibility and heavy traffic flow. However, the display should not impede and must not conflict with, existing fire escape regulations. If you incorporate lighting and the use of electrical equipment, all safety standards and requirements must be adhered to. If the display is manned, then consider this location the same as if you were selecting a location to conduct a field inspection. All aspects of a safe working environment are to be considered. If, in your display, technical equipment or exhibits are used, extreme caution should be used to ensure that no damage of equipment occurs. All security precautions must be considered so that there is no loss of the items under your charge.

Use of Training Aids

Usually, two basic groups of training aids are used to make presentations more effective. They are handout materials and audio-visual aids.

Handouts

Handout materials are an important factor in most Consumer and Trader Education programs. One must determine what materials are best suited for a specific group. In order to aid in this decision, handout materials have been broken into four categories:

- General information
- Fact sheets
- Technical information
- Nice to know information

Persons involved in giving presentations should make themselves aware of what materials are available. They should be aware of what is available nationally, regionally, and locally. Make sure your information is current with regard to accuracy and that sufficient quantities are available. Maintaining an up-to-date inventory list can be most helpful. The Department does issue a stock-room inventory of publications on a monthly basis.

Consideration should be given to using publications made available by other Departments and Agencies. Due to the nature of our inspection work and the fact that many aspects of our work overlap with many Federal and Provincial departments and agencies, these can be excellent sources of information material such resources could include Provincial Departments of Agriculture, Agriculture Canada, Health and Welfare Canada, Beef Information Center, Canadian Carpet Institute, etc. It is mandatory that bilingual copies of all information material used be made available during presentations or displays.

Audio Visual Aids

To repeat, the aid should be used to help make the presentation effective. Therefore, the right aid should be selected or prepared for the right spot in the presentation. You should consider "where will an aid help me?" In using the aid, planning and preparation should assure that the equipment is all set up and works properly. Also, whoever is using the aid must be prepared and qualified -- in other words, knows how to use it and correct any problems that might occur. Again, check to ensure availability.

General Audio-Visual Guidelines

Keep your technology under control ie. don't allow your hardware to take over your presentation.

Use to enhance your presentation

Select appropriate aid for presentation

Select appropriate aid for environment

'Pre-check all your equipment and materials'

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WARNING/
INFORMATION LETTERS

Warning/Information Letter Policy

Enforcement in Consumer Products is by and large a progressive procedure commencing with the inspection, followed by education and then to increasingly stronger dealer directed actions. One of the foundations of the enforcement process after the initial encounters are the "letters" which are sent to the trader as a result of our actions.

There are several types of letters which are employed, each for a specific purpose and with specific content, all intended to achieve compliance with Consumer Products legislation.

There are three types of letters that are issued:

Type A	Letter A1
	" A2
	" A3
Type B	
Type C	

Letter A

These are the most commonly used types of letters. These types are sent as a result of an inspection and they involve a series of three progressively stronger letters.

Letter A1

Is an information letter to confirm information conveyed orally during an inspection, after a violation has been found. The consumer products inspection report (CCA 1566) may serve as a type A1 letter, but this is rare.

The contents of this letter include:

1. DESCRIPTION AND DATE OF ENFORCEMENT ACTION (inspection, sample, etc.,) REASONS FOR LETTER.

2. ADDRESS WHERE VIOLATION OCCURRED

3. RESULTS OF INSPECTION

4. STATEMENT: "This will confirm that _____ was discussed on _____ with _____ of our office.

5. IDENTIFY CONTACT PERSON WITH WHOM TRADER MAY DISCUSS CONTENTS OF LETTER.

6. SIGNATURE OF INSPECTOR.

The inspector is responsible for signing the A1 type letter and such letter can be sent by regular first class mail.

Letter A2

Is an information letter which follows letter A1 where the subject violation has been repeated, asking the trader for a reply indicating the corrective measures he intends to take within a reasonable time which is usually 10 days.

The contents of this letter include:

1. DESCRIPTION OF AND DATE OF ACTION (reasons for letter)

2. LOCATION OF VIOLATION AND ENFORCEMENT ACTION TAKEN.

3. EXCERPTS OF THE APPLICABLE LEGISLATION AND REFERENCE TO APPROPRIATE SECTIONS.

4. STATEMENT OF WHAT WAS DONE AT THE TIME. COPIES OF RELEVANT COMMUNICATION PAST REPORT LETTERS.

5. STATEMENT: "WOULD YOU PLEASE INDICATE TO THE UNDERSIGNED WITHIN 10 DAYS OR RECEIPT OF THIS LETTER WHAT CORRECTIVE MEASURES YOU INTEND TO TAKE.

6. INSPECTOR'S SIGNATURE (WITH DISTRICT MANAGER'S CONCURRENCE)

   This letter in the past was referred to as the information letter.

The inspector is responsible for signing the A2 type letter but must first achieve concurrence with the District Manager. This letter should be sent by registered mail so that the trader realizes the intent of this letter is more serious than the previous letter.

Letter A3

Is a warning letter advising the trader of the consequences of not correcting the violation which was the subject of letter A1 and A2. This letter is sent when it is clearly our intent to prosecute any continued violations.

The contents of this letter include:

What 1. DESCRIPTION AND DATE OF ENFORCEMENT ACTION GIVING RISE WARNING LETTER.

Where 2. ADDRESS WHERE VIOLATION WAS FOUND.

3. END RESULT OF ENFORCEMENT ACTION.

4. STATEMENT OF WHAT WAS DONE.

5. STATEMENT: "IT IS THE DEPARTMENT POLICY TO CONDUCT PERIODIC INSPECTIONS TO ENSURE COMPLIANCE WITH THE REQUIREMENTS OF THE ACT AND REGULATIONS. PLEASE BE ADVISED THAT FUTURE INFRACTIONS MAY RESULT IN PROSECUTION ACTION."

6. CONTACT PERSON WITH NAME AND TITLE.

7. DISTRICT MANAGER'S SIGNATURE.

The District Manager is responsible for signing this letter and it should be sent "double registered". This type of mail requires that the Post Office return a card to the Department which is known as an "Acknowledgement of Receipt of a Registered Item" as proof of delivery. The card must be signed by a responsible person at the trader's place of business if not by the trader himself/herself.

Letters A1 A2 A3

These letters serve several functions as enforcement tools:

1. - they provide a clear record and reference for the dealer of his responsibilities and the law.

2. - they also communicate to him our future intentions if compliance is not achieved.

3. - in addition, the letters leave no doubt, as part of the file, as to what the dealer has been told as to his responsibilities.

4. - they can be a form of evidence if prosecution is initiated to counteract a defense of due diligence.

The other two types of letters that are used include TYPE B and TYPE C.

TYPE B

Is an information letter, the purpose of which is to resolve a problem found to be generalized because the product in violation is new in the marketplace, or because policy, with regard to enforcement, is changed in terms of its application or its interpretation. This letter is thus used as a preliminary enforcement tool to degeneralize the problem.

The contents of this type of letter include:

1. Description of product or device in violation.

2. Excerpts of the section of the applicable legislation and reference to sections of the applicable Regulations.

3. The following statement:

   "You are requested to take whatever action is necessary to bring the subject (products or devices) into compliance with the requirements of the Act and Regulations."

4. Identification of contact person with whom the trader may discuss the contents of the letter.

5. Signature of district manager (after Regional Manager's concurrence).

Note: If the problem is generalized in the region, it is up to the Regional Manager to sign the letter.

This letter is to be signed by the District Manager, requiring concurrence from the Regional Manager. This type of letter can be sent by general first class mail.

TYPE C

Is a warning letter advising a trader that he/she may face prosecution (within a reasonable period of time) because major violations or persistent products or devices are in violation. This type of warning letter is not used in conjunction with any preliminary information letter as in type A.

The contents of this type of letter include:

1. Description and date of enforcedment action, e.g., inspection, sample, etc., giving rise to warning letter.

2. Address where violation was found and enforcement action taken.

3. Brief description of result of enforcement action.

4. Statement of what was done at the time, e.g. copy of inspection report, copies of any relevant communication on the subject of the warning letter, etc.

5. Excerpts of the sections of the applicable legislation and reference to sections of the applicable Regulations.

6. The following statement:

   "It is Department policy to conduct periodic inspections to ensure compliance with the requiredments of the Act and Regulations. Please be advised continued violation and infractions of a similar nature may result in prosecution Action."

7. Identification of contact person with whom the trader may discuss the contents of the letter.

8. Signature of District Manager (after Regional Manager's concurrence).

The District Manager is responsible for signing this type of letter having concurred with the Regional Manager. The letter should be sent via double registered mail.

The content of a C type letter is identical to the A3 type letter with the only difference being that this letter does not need to have preliminary letters issued similar to the A1 or A2 type letters. Situations which may warrant such a letter could include:

a) a sample which fails analysis due to composition.

b) a situation or practice that would be so obviously deliberate in nature that "due diligence" would not be a possibility.

It should be noted that regardless of the designated signatory, this does not preclude the inspector being the initiator and drafter of the appropriate letter. The rationale for this is that the inspector will usually ave more intimate knowledge of the ciumstances giving rise to the letter.

Signature Authorization

The table hereunder summarizes the signature authorization and concurrence, if required, for all types of letters.

Types	Object of letter	Signature	Concurrence reguired
A1	Information	Inspector	
A2	Information with reasonable delay	Inspector	District manager
A3	Warning (following A1 and A2)	District manager *	
B	General information	District manager	Regional manager
C	Warning: - major infraction or - repetitive infraction	District manager *	Regional manager

* District Manager or designated inspector.

Appendixes 1 to 5 are examples of the various types of letters used.

APPENDIX 1 (Example)

ENFORCEMENT ACT A - INFORMATION LETTER A (1)

Mr. A. Jones, Manager
Big Boy Food Market
22 Eber Street
Hidden Valley, Ont.
M1M 2T2

Dear Mr. Jones:

An inspection of your establishment, Big Boy Food Market located at 22 Eber St., was carried out by this Department on October 2, 1982.

Our inspection revealed numberous shortweight infractions notably with regard to your Canada Grade A turkeys, Maple Leaf brand hams, and your T-Bone steaks. These products were removed from sale by your staff, reweighed, marked with the correct weight, and then placed back on display for sale.

All products being offered for sale on a weight basis must by legislation meet the net quantity declared on the label.

This will confirm that the above events were discussed on October 2, 1982 at which time you undertook to implement tighter controls over weighing procedures.

If you need further clarification on this matter or wish to discuss the contents of this letter, please contact the undersigned.

Yours truly,

E. Smith
Position title

APPENDIX 2 (Example)

ENFORCEMENT ACTION A - INFORMATION LETTER A (2)

Mr. A. Jones
Big Boy Food Market
22 Eber Street
Hidden Valley, Ontario
M1M 2T2

Dear Mr. Jones

A follow-up inspection of your establishment, Big Boy Food Market located at 22 Eber Street, was carried out by this Department on December 16, 1982.

Our inspection revealed numerous shortweight infractions, notably with regard to T-Bone steaks, sirloin steaks, lean ground beef and your Canada Grade A turkeys. The violative products were removed from sale, reweighed, marked with the correct net quantity declaration and placed back on display by your staff.

These products were in violation of Section 7 (1) of the Consumer Packaging and labelling Act which states: "No dealer shall apply to any prepackaged product or sell, import into Canada or advertise any prepackaged product that has applied to it a label that contains any false or misleading represenation relating to or that may reasonably be regarded as relating to that product."

A copy of the Consumer Packaging and Labelling Act and Regulations as well as the Consumer Packaging and Labelling Guidelines were left for your reference and information.

A signed inspection report further detailing the infractions found on your premises during this visit was also left with you.

Attached you will find a photocopy of an information letter dated October 17, 1982 sent to you as a result of a previous inspection which showed similar shortweight violations.

Would you please indicate to the undersigned within ten days of receipt of this letter what corrective measures you intend to take so as to avoid a recurrence of the above-indicated violations.

Yours truly

J. Brown
Position title

APPENDIX 3 (Example)

ENFORCEMENT ACTION A - WARNING LETTER A (3)

Mr. A. Jones
Big Boy Food Market
22 Eber Street
Hidden Valley, Ontario
M1M 2T2

Dear Mr. Jones

On March 2, 1983, your establishment, Big Boy Food Market at 22 Eber Street, was inspected by this Department.

Your prepackaged pork loin center cut chops, round steaks, pork side ribs, chicken leg thighs and Canada Grade A chicken Plumpy Brand were found to be in violation because of short weight.

These products were all removed from sale, reweighed, marked with the correct net quantity and placed back on display for sale by your store personnel while our inspector was still present.

On two previous inspections at your establishment on October 2, 1982 and December 16, 1982, numerous similar short-weight violations were found by our inspectors.

As a result, two letters, copies of which are attached, were sent to you confirming the violations found and informing you of the legislative requirements related to net quantity declarations.

A copy of the Consumer Packaging and Labelling Act and Regulations, as well as the Consumer Packaging and Labelling Guidelines were left with you during our inspector's visit for your reference and information.

A second copy of the inspection reports related to each of the inspections referred to above were left with your store manager, Peter Park, for your reference.

.../2

It is Department policy to conduct periodic inspections to ensure compliance with the requirements of the Act and Regulations. Please be advised that future infractions of a similar nature may result in more stringent enforcement action, up to prosecution.

If you wish to discuss the contents of this letter or need any further information concerning the above, please contact the undersigned.

Yours truly,

Joseph White
District Manager

APPENDIX 4 (Example)

ENFORCEMENT ACTION B - INFORMATION LETTER B

Mr. A. Jones
Big Boy Manufacturing
22 Eber Street
Hidden Valley, Ontario
M1M 2T2

Dear Mr. Jones

We wish to hereby advise you of an amendment to the Consumer Packaging and Labelling Regulations regarding the requirement that all information required by the Act and Regulations be shown on the label of the prepackaged product be shown in both official languages. This amendment will come into effect on September 1, 1987.

This amendment was considered and implemented as a result of numerous complaints from industry and consumers concerning this requirement. These complaints were especially prevalent in areas of the country where only one of the official languages was being used in communication. Changes to the Regulations now require the mandatory information to be shown in both official languages in only those areas where there is a 50 - 50 split between the numbers of consumers communicating in both official languages.

The intent of the amendment is to be more responsive to the needs of the Canadian community and to lessen the burden of expensive labelling requirements on our Canadian manufacturers.

The amendment reads as follows:

> "6(2) All information required by the Act and these Regulations to be shown on the label of a prepackaged product shall be shown in both official languages only in areas where there is an equal number of consumers who communicate in both official languages. The identity and principal place of business of the person by or for whom the prepackaged product was manufactured, processed, produced or packaged for resale need only be shown in one of the official languages."

.../2

You are requested to take whatever action is necessary to bring your packaging material into compliance with the requirements of the Consumer Packaging Labelling Act and Regulations.

Should you have any questions or require further clarification, please feel free to contact our district office at 416-447-5183.

Yours truly

District Manager

APPENDIX 5 (Example)

ENFORCEMENT ACTION C - WARNING LETTER C

Mr. A. J. Smith, Manager
Quality Dairy Products
111 Dairy Lane
Halifax, N.S.
B1J 3A7

Dear Mr. Smith:

On August 16, 1986, a visit to your dairy located on 111 Dairy Lane, Halifax, Nova Scotia was made by the inspector indicated in the latter part of this letter. At the time, you were informed that a sample of your homogenized whole milk purchased on August 15, 1986 had been analyzed by a lab and found to contain added water. The sample had been selected for the purpose of testing it against the standard for whole milk found in the Food and Drugs Regulations.

When tested in accordance with the freezing point test, the sample exhibited a freezing point of - 0.377 which indicates that the sample contained 30% added water.

The failure of your product to meet the standard for whole milk constitutes a violation under Section 5(1) of the Food and Drugs Act which states: "No person shall label, package, treat, process, sell or advertise any food in a manner that is false, misleading or deceptive or is likely to create an erroneous impression regarding its character, value, quantity, composition, merit or safety".

As you are aware, the lot in question was subsequently seized under tag No.52417 to remain on the premises.

It is Department policy to conduct periodic inspections to ensure compliance with the requirements of the Act and Regulations. Please be advised continued violation and infractions of a similar nature may result in more stringent enforcement action, up to prosecution.

If you have any questions concerning the above information, please feel free to contact our Dartmouth district office: Phil de Loophole at 902-426-3275.

Yours truly,

Josephine Manager
District Manager

SEIZURE AND
RELEASE

SEIZURE

POLICY

The Bureau policy regarding seizure action is contained in section 1.10 of Chapter 1 of the Bureau of Consumer Affairs Policy Manual. It is stated as follows:

-Seizure of product, or removal of devices from trade and sealing, may be necessary, particularly where there is evidence that products/devices which are removed from sale/use might otherwise be sold or used in trade. Such action is the use of a power provided by the legislation, by which the trader is denied the free use of his product/device. It would likely be used for such violations as:

- the product is dangerous to health or safety/the compliance history of the trader is such that voluntary compliance is unlikely and the nature of the infraction warrants seizure/the extent of economic fraud or the volume of the product involved is substantial/non-compliance gives a trader an unfair advantage over his competitors. Seizure or removal of device from trade and sealing, does not preclude warning, show cause hear, or prosecution action.

There is provision for seizure and detention in the regulations under the Canada Agricultural Products Standards Act. Reference should be made to these regulations for further explanation and clarification.

CHAPTER 4 SEIZURE AND RELEASE

DEFINITION

Seizure action is action taken to ensure control of the product and/or where alternative actions have failed to maintain control.

WHAT CAN BE SEIZED

Any thing or article which caused the violation, or any packaging materials, labels and advertising materials.

WHEN SHOULD SEIZURES BE WARRANTED

Seizure could be warranted under the following conditions:

1. Evidence that products which are removed from sale might otherwise be sold.

2. History of the trader is such that voluntary compliance is unlikely.

3. Extent of economic fraud or the volume of product is substantial.

4. Nature of the infraction e.g.

    a. False and Misleading Representations
    b. Shortweight
    c. Composition Misrepresented
    d. Composition Incomplete
    e. Others

5. Non-Compliance gives a trader an unfair advantage over his competitors.

6. To control violative product authorized to move from one district or region to another for correction.

This list does not include all reasons for instituting seizure action. However, you must realize that the power of seizure is an extraordinary power granted by the legislation by which you can deny to the owner the free use of articles in his/her possession.

In some instances seizure action may not be in the public interest. Such instances could include:

1. Labelling omissions only.

2. Situations where consumers may be deprived of their only source of a certain commodity, provided the product is wholesome and the violation is not fraudulent.

3. Strictly minor technical situations.

REASONS FOR USING SEIZURE ACTION

The two common reasons for using seizure action are:

1. As a means to effect control prior to final disposition of "seriously" violative product and

2. for the aquisition of evidence when prosecution is comtemplated.

PROCEDURES FOR SEIZURE OF PRODUCT

When the decision has been made that a seizure is warranted, it is important to isolate and group the seized products.

The method of grouping goods often depends on the business level at which the goods were seized. In most cases, products on the premises of a manufacturer or wholesaler are already grouped in storage. All that remains to be done is a check of the samples room and the production line. When all the products to be seized have been located, they must be grouped into lots according to characteristics such as code date, color, format, packaging and style number.

In the case of a retailer, the products may be on the sale floor and in a storage area. They must be moved to an area closed to the public. This is generally the storage area or, if none exists, some out of the, way place on the premises. Again, the products must be separated according to their various characteristics.

Where products are to be kept:

If the seized products are to remain on the merchant's premises, care should be taken so that they are placed where they will not interfere with the normal flow of traffic, and that they are not near products which are usually moved, in order to avoid a possible breach of seizure.

In addition, the surrounding area should be checked to make sure that the storage of the seized products will not entail any danger. Factors such as flammability, explosion (nearby heat source), contamination or damage from an outside source (frost, water, condensation, or other products with which it could react), should be considered.

Counting and Marking Products:

1. <u>Counting</u>

Once all the products have been grouped together and placed in lots, all the sub-groups must be counted. A decision must then be made whether these sub-groups will be included in one seizure or several.

This decision on whether to issue one or more seizure notices should be based on the following factors:

- Different violations
- Products similar, but with different origins;
- possibility of transferring only part of the stock seized, or transferring it to more than one location;
- same origin, but possibility of correcting only part of the stock seized (difference in design or labelling);
- huge quantity with different formats, colors and style numbers.

The count should always be confirmed by the inspector and <u>the owner or person in charge of the seized goods reported to confirm his total.</u> This procedure will dispel any doubt in the event of a breach of seizure. In situations where physically counting the product may not be possible, a count may be obtained from the firm's computer inventory.

At this point unofficial samples are often taken and where an official sample is required, the sample(s) should be purchased before counting.

Packaging and Marking Seized Goods:

The packaging of the seized goods must be changed to clearly indicate the new status of the goods. There are various means of packaging goods which have been seized.

The best method is to place the seized goods in one or more boxes and then close and fasten the latter with official Departmental sealing tape. The inspector's initials or seal should then be placed across the tape at various intervals, thus making it impossible to open the box(es) without breaking the seal and the line of initials. The seizure tag (CCA-736) should then be placed on the box.

The tag must be firmly attached to the box and plainly visible in the centre. If the seized goods have been placed in several boxes, each box should be sealed as described above and all the boxes which do not have a separate seizure tag (CCA-736) marked with the number of the tag applicable to them.

In addition, the boxes should be numbered. For example, if there are four boxes, the first should be numbered 1/4, the second 2/4, the third 3/4 and the fourth 4/4.

In cases where this is not possible, one should seal the original shipping or packaging cartons and mark them as already discussed.

If the goods seized are not already packaged in boxes and the inspector cannot obtain boxes in which to place them, they should be fastened together with rope or tape with his seal or initial on it. The products should be fastened together in such a manner as to discourage any tampering. The inspector should then attach the seizure tag firmly and in such a way that it is in plain view.

Photographs may be taken of the seized goods from various angles. In addition to having an effect on the owner of the seized goods, this procedure will make it easier to identify the seized goods during subsequent visits.

At this point, the owner must be reminded that he is prohibited from removing, altering or interfering with any seized product unless a legally appointed inspector authorizes him to do so.

Transfer of Seized Goods:

The dealer may, depending on the type of violation and the volume of the product involved, wish to make arrangements to have the violative product moved to the manufacturer or supplier or another location which may be in another district or region for correction. This is the dealer's prerogative. The dealer should not be prevented from moving the product under detention to the location specified by the responsible party provided the inspector is satisfied that the violation will be properly corrected. If agreement cannot be reached on a suitable location for correction, the product must remain on the premises under detention until further action is decided upon.

Where products under seizure are to be transferred to another firm, such as the manufacturer, arrangements must be made between the parties involved for acceptance of the goods. The party who is receiving the goods must state in writing or by telephone that he/she is willing to receive the goods and correct the errors.

Where the goods are to be transferred out of the district, the inspector should request assistance, from the other district/region, in assuring compliance and facilitating release. Copies of all documentation should be sent to this other district/region.

Note: All inter- and intra-regional communications should be completed as per Consumer Products Referral System.

Before permission for transfer may be given, the inspector should check to see that the seized goods are prepared for shipping or there is evidence that the goods are to be shipped, ie., packed goods or shipping papers. The inspector should take copies of all documentation for his/her files. If the goods are packed ready for shipping the inspector should attach a seizure tag to the ouside of boxes or packages to alert the recipient of their arrival and to verify that the goods were seen by the inspector prior to shipping. It is advisable to enclose a copy of CCA 737 with the boxes being transferred.

If the inspector is satisfied that the disposition of the seized goods is necessary to bring the goods into compliance, he may authorize the transfer. Such an authorization must be given in writing and any condition agreed upon clearly specified in a letter or on the Notice of Seizure (CCA 737). The name, address and phone number of the respective contact in the receiving district/region should be indicated on the CCA 737 under "Authority to Remove or Correct".

The inspector should notify the recipient district/region and have the dealer notify the recipient dealer that the goods have been sent.

A copy of the seizure form should be sent to the recipient district/region. The inspector should note on the seizure form how and when the goods were sent.

The recipient district/region should contact the dealer to see if goods have been received and if he/she is aware that the goods are under seizure and the penalty for tampering with seized goods.

The region in which the goods were originally seized should be advised of the receipt of the goods.

When the inspector is satisfied that the product complies with the Act and the Regulations he may release the seizure by completing the Notice of Release form. The original seizing region should be notified of the release.

Documentation

There are only two forms to be completed when a seizure is made the "Notice of Seizure" (CCA-737) and the "Seizure Tag" (CCA-736)

Instructions for Completion CCA-737:
(Numbers refer to example form shown on page 4-11)

1. Inspection Report Reference Number:

   Record the number of the corresponding CCA-1566 "Establishment Report".

2. Issued:

   Record the complete name of the company.

3. Address:

   Record the complete address of the company.

4. Location of Product:

   Record the address where the product is located. If the address is the same as the one in box (3), enter "same".

5. Item:

Indicate item numbers if more than one lot is being detained. A different form should however be used for each Act, Regulation and Section which has been violated and whenever different products may require different courses of action to correct the problem.

6. Description of Commodity or Packaging, Labelling or Advertising Material:

Describe the commodity being seized. Record commodity, variety, durable life date, grade markings, or other markings to clearly identify the product.

7. CCA-939 Reference:

Record the number of any corresponding CCA-939 "Sample Record" form.

8. Quantity:

Record the quantity using the most applicable unit of measure.

9. Estimate Value:

Estimate the retail value of the entire amount of product seized.

10. Reason for Seizure:

Set out in clear, readily understandable language the reasons for the seizure. Do not use vague phrases like "label not applied as prescribed" or "does not meet standard". Discuss the reasons with the trader. Ensure that he/she understands why the goods are in violation and why they are being seized.

11. Name of Act:

Check off or write in the name of the appropriate act.

12. Name of Regulation

Record the name of the Regulation, if applicable (eg., Fresh Fruit and Vegetable Regulations). If not applicable, i.e., where there is an offence under the Act only, enter "N/A".

13. Section of Regulation:

Record the section of the Regulation, if applicable.

14. Section of Act:

Record the section of the Act which has been violated. Ensure that you use the correct section of the Act in this box and not the section of the Regulation.

15. Owner or Party Responsible:

Record the name and title of the authorized representative of the company. Record the address of the person or company responsible. If the address is the same as in box (3), enter "same as above."

16. Authority to Move or to Correct:

Permission is granted for seized product to move by entering the item number of the seized product (from box (5)) and the name and address of the location to which the seized product may move. After granting permission for product to move, inspectors must:

In the case of agricultural products other than fresh and processed fruits and vegetables and dairy products:

i) immediately notify the local Agriculture Canada office of the details of the detention and the name of the firm to which the detained product will be directed. NOTE: If the product is being allowed to move out of the area local jurisdiction, the local Agriculture Canada office should be requested to relay the information by telephone to their office nearest the location where the detained product will be corrected and released.

ii) include a statement to the effect that, for example "Poultry Division has been informed of the detention" in the "Remarks" section of the inspection report (CCA-1566) form.

iii) for fresh and processed fruits and vegetables and dairy products, refer to the Agriculture Canada Liaison Agreement.

17. Inspector's Name:

Record your name and telephone number and then sign and indicate the date on which the seizure was made.

18. Signature of Recipient:

Have the recipient sign the form. Should he/she refuse to sign, enter "refused to sign".

19. Copies to:

List the names and locations of firm(s) and government offices to whom copies are to be sent.

NOTE It is not necessary to include information on the distribution of copies within the Department.

20. You are invited to forward any comments or questions you may have concerning this Seizure to:

The title, address and telephone number of your district manager should be entered in this space on the trader's copy only. Refer the trader to this section.

21. Warning:

Refer the trader to the warning and ensure that he/she clearly understands the consequences of tampering with a seizure.

22. Reverse of the Trader's Copy:

Refer the trader to the applicable description of rights and conditions of seizure which is printed on the reverse of the trader's copy, and ensure that he/she is aware of the rights and conditions.

Once the violative product has been placed under seizure, the individual cartons containing the product or the individual lots if not prepackaged should be accompanied by a Seizure Tag CCA 736.

CCA-1813

Consumer and Corporate Affairs Canada — Consommation et Corporations Canada

NOTICE OF SEIZURE AND DETENTION
AVIS DE SAISIE ET RETENUE

117001

Inspection Report Reference Number / Numéro de référence du rapport d'inspection

Issued to / Émis à

Item	Description of Commodity or Packaging, Labelling or Advertising Material / Description du produit, de l'emballage, de l'étiquetage ou du matériel publicitaire	CCA-939 Reference / Référence de CCA 939	Quantity / Quantité	Fair market Value / Valeur estimative	Reason for Seizure / Motif de la saisie

WARNING – It is illegal to move, alter, or interfere with a commodity or packaging, labelling or advertising material, under seizure without the written permission of an inspector.

AVERTISSEMENT – Il est interdit d'enlever, de modifier ou de déplacer un produit ou emballage étiquetage ou matériel publicitaire sous saisie sans l'autorisation écrite d'un inspecteur.

Name of Act – Titre de la Loi

- ☐ Canada Agricultural Products Standards Act / Loi sur les normes des produits agricoles du Canada
- ☐ Food and Drugs Act / Loi sur les aliments et drogues
- ☐ Consumer Packaging and Labelling Act / Loi sur l'emballage et l'étiquetage des produits de consommation
- ☐ Precious Metals Marking Act / Loi sur le poinçonnage des métaux précieux
- ☐ Weights and Measures Act / Loi sur les poids et mesures
- ☐ Fish Inspection Act / Loi sur l'inspection du poisson
- ☐ Hazardous Products Act / Loi sur les produits dangereux
- ☐ Textile Labelling Act / Loi sur l'étiquetage des textiles
- ☐ Other / Autre _____

Name of Regulation – Nom du règlement | Section of Regulation – Article du règlement | Section of the Act – Article de la Loi

Owner or Party Responsible – Propriétaire ou personne responsable

Authority to move or to correct – Autorisation de déplacer ou de corriger
Permission is granted to move item / Permission de déplacer ou de corriger accordée _____ To / À _____ No – N°

Name – Nom | Address – Adresse * | Date Y-A M D-J

Inspector's Name – Nom de l'inspecteur | Telephone No – N° de téléphone | Inspector's Signature – Signature de l'inspecteur | Date Y-A M D-J

Signature of Recipient – Signature de la personne qui reçoit l'avis | Date Y-A M D-J | Copies to – Copies à

Products or articles seized may be released by an inspector once they have been brought into compliance with the applicable Act and Regulations.
Les produits ou articles saisis peuvent être libérés par un inspecteur lorsque les dits produits ou articles satisfont aux exigences de la Loi et des règlements pertinents.

You are invited to forward any comments or questions you may have concerning this seizure to:

Vous êtes invité(e) à présenter questions ou commentaires concernant la saisie effectuée à mon surveillant immédiat:

Distribution:
1 Goldenrod – Inspector / Verge d'or – Inspecteur
2 White – Master / Blanche – Contrôleur
3 Blue – Region / Bleue – Région
4 Buff – District / Chamois – District

Canada

INSTRUCTIONS FOR COMPLETION CCA-736:

1. CCA-736 Number:

   Record the control number of the corresponding pre-numbered "Notice of Detention" form (CCA-737) on all CCA-736 "Seizure and Detention" tags.

2. Name of Act:

   Indicate the act under which the product is seized.

3. Quantity:

   Record the quantity using the most applicable unit of measure.

4. Description of Commodity or Packaging and Labelling Material:

   Describe the commodity seized. Record commodity, variety, durable life date, grade markings and any other markings to clearly identify the product.

5. Signature of Inspector:

   Sign the tag, indicate your office telephone number and record the date.

If using as a label, tear off top portion with hole.

Pour utiliser comme étiquette, détachez la partie où se trouve le trou.

Consumer and Corporate Affairs Canada | Consommation et Corporations Canada

CCA-737 Number / Numéro de CCA-737

UNDER SEIZURE & DETENTION
SOUS SAISIE ET RETENUE

- IT IS ILLEGAL TO REMOVE THIS TAG OR TO MOVE, ALTER OR INTERFERE WITH THIS COMMODITY OR PACKAGING, LABELLING OR ADVERTISING MATERIAL WITHOUT THE WRITTEN PERMISSION OF THE INSPECTOR.
- IL EST ILLÉGAL D'ENLEVER CETTE CARTE OU DE DÉPLACER, MODIFIER OU MANIPULER CE PRODUIT OU LE MATÉRIEL D'EMBALLAGE, D'ÉTIQUETAGE OU LE MATÉRIEL PUBLICITAIRE SANS L'AUTORISATION DE L'INSPECTEUR.

NAME OF ACT — NOM DE LA LOI

- ☐ Canada Agricultural Products Standards Act / Loi sur les normes des produits agricoles du Canada
- ☐ Consumer Packaging and Labelling Act / Loi sur l'emballage et l'étiquetages des produits de consommation
- ☐ Precious Metals Marking Act / Loi sur le poinçonnage des métaux précieux
- ☐ Fish Inspection Act / Loi sur l'inspection du poisson
- ☐ Hazardous Products Act / Loi sur les produits dangereux
- ☐ Weights and Measures Act / Loi sur les poids et mesures
- ☐ Food and Drugs Act / Loi sur les aliments et drogues
- ☐ Textile Labelling Act / Loi sur l'étiquetage des textiles
- ☐ Other / Autre _____

Quantity / Quantité	Description of Commodity or Packaging and Labelling Material / Description du produit ou des matériaux d'emballage et d'étiquetage

Signature of Inspector / Signature de l'inspecteur	Telephone — Téléphone	Date Y-A M O-J

Canada

CCA 736 (10-84)

TIME CONSIDERATIONS

There are important time limit considerations to be noted regarding seizures. These time periods are Detention Periods with slight variations from Act to Act.

	Days
Textile Labelling Act	90
Consumer Packaging & Labelling Act	60
Food and Drugs Act	as long as necessary
Canada Agricultural Products Standards Act	90
except dairy products, shell eggs, poultry	6 months
fresh & processed fruits & vegetables	180 days
Fish Inspection Act	2 months
Precious Metals Marking Act	90 days

The product shall not be detained for longer than the time period indicated unless court action has been initiated prior to the passage of the noted number of days. An extension to maintain a product under seizure and detention must be applied for through a magistrate.

Once this time period has expired, even if goods have not been corrected or a charge has not been laid, it is legally necessary to release the seizure on the expiration of the time limit.

The dealer should be warned of the consequences of selling the uncorrected goods.

Products in "expired seized lots may not be reseized". All of the conditions which led to the original seizure must be met.

The following steps should generally be followed prior to reseizure:

a) The trader should be reminded by warning letter of the nature of the infraction and what his legal alternatives are for disposal of the goods, i.e. relabelling, export, charity, etc. (The seizure release form could accompany this letter).

b) The trader should be given a reasonable amount of time after the seizure is released to show what he intends to do with the goods (at least 24 hours).

c) If the trader, despite receiving the benefits of steps (a) and (b), attempts to sell the goods without correction, the goods should be reseized and a charge laid.

Release of Seized Goods CCA-738

Whenever a lot of seized goods must be released, the release form CCA-738 must be completed.

1. Seizure and Detention or Rejection:

   Tick the appropriate box.

2. Place of Release:

   Fill in the town or city and province where the seizure is being released.

3. Date:

   Fill in the date of release.

4. CCA-939 No.:

   If a sample was taken of the seized lot include the number of the CCA-939.

5. Issued to:

   Write in the name of the trader to whom you are releasing the product.

6. Address:

   Write in the address of the trader.

NOTE The release can be made out to a trader other than the trader to whom the seizure notice was served.

7. Location of Product or Device:

   Write in the location of the product that is being released. May be different from the location of the seizure.

8. Description of Product or Device:

   Describe the product, commodity, labelling or advertising material being released. This description should be the same as on the seizure notice.

9. Quantity:

   Record the quantity being released using the most applicable unit of measurement.

10. Estimated Value:

    Record the estimated retail value of the goods being released.

11. Place of Detention and Seizure or Rejection:

    Record the place where the product was detained and seized or rejected.

12. Date:

    Record the date of the detention and seizure or rejection.

13. Tag No.:

    Record the number of the Seizure Tag used.

14. Issued By:

    The name of the inspector who was responsible for the detention and seizure or rejection is to be recorded.

15. Reason for Release:

    Record the reason as to why the goods are being released.

16. How Notice was Served:

    Tick the appropriate box.

17. Copies To:

    Record the names of all of those who received copies of the detention and seizure or rejection notice. Ensure everyone receives their copy.

18. Inspector:

    The inspector issuing the Notice of Release should sign here.

If the product is released by another Department such as Agriculture Canada or Fisheries and Oceans, you should ensure you get a copy of the release form to close off the Notice of Seizure and Detention.

Consumer and Corporate Affairs Canada | Consommation et Corporations Canada

SEIZURE AND DETENTION SAISIE ET RETENUE ☐

REJECTION REJET ☐

NOTICE OF RELEASE AVIS DE LIBÉRATION

PLACE OF RELEASE — LIEU DE LA LIBÉRATION	DATE	CCA-939 NO. — N° DU CCA-939
ISSUED TO — ÉMIS À	ADDRESS — ADRESSE	
LOCATION OF PRODUCT OR DEVICE — LOCALISATION DU PRODUIT OU DE L'APPAREIL		
DESCRIPTION OF PRODUCT OR DEVICE — DESCRIPTION DU PRODUIT OU DE L'APPAREIL	QUANTITY — QUANTITÉ	
	ESTIMATED VALUE — VALEUR ESTIMATIVE	
PLACE OF DETENTION AND SEIZURE OR REJECTION — LIEU DE LA SAISIE ET RETENUE OU REJET	DATE	
TAG NO. — N°. DE L'ÉTIQUETTE	ISSUED BY — ÉMIS PAR	
REASON FOR RELEASE — RAISON DE LA LIBÉRATION		
HOW NOTICE WAS SERVED—LIVRAISON DE L'AVIS ☐ MAILED PAR LA POSTE ☐ DELIVERED PERSONALLY REMIS DE MAIN EN MAIN	COPIES TO — COPIES À	
INSPECTOR — INSPECTEUR		

Canada

CCA-738 (6-84)

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SHOW CAUSE
HEARING

POLICY

The Bureau policy regarding Show Cause Hearings is found in the Bureau of Consumer Affairs Policy Manual. It is stated as follows:

> A Show Cause Hearing between the Department and the trader can, depending on the circumstances, be held when all evidence has been gathered and the Department is ready to proceed with prosecution action; if the firm does not agree to comply, prosecution action is initiated. Alternatively, a Show Cause Hearing can be used to reinforce the impact of warning letters; the trader is asked for commitment as to corrective action and is informed that continued failure to comply may lead to more stringent enforcement action.

DEFINITION

A Show Cause Hearing is a recommendation by the inspector that a meeting within the District Office between the trader, inspector and district and/or regional management be held to discuss the trader's record of compliance and the trader's intention regarding future compliance with a record of the proceedings kept on file.

WHEN CAN A SHOW CAUSE HEARING BE HELD

Show Cause Hearings can be held when:

1. all evidence has been gathered and prosecution action is being considered.

2. the impact of a warning letter needs to be strengthened
   a) if the warning letter appears to have had little or no effect in achieving compliance,
   b) if the trader appears to be unco-operative in attempting to bring about compliance.

3. it is necessary to further ascertain the lack of due diligence by reviewing the compliance history with the trader.

PROCEDURE FOR REQUESTING A SHOW CAUSE HEARING

There are six basic steps which an inspector must take to ensure a successful Show Cause Hearing. These are:

1. Review of the Establishment file by the inspector
2. Discussion with the Supervisor
3. Letter to the trader
4. Information kit for Show Cause Hearing participants
5. Meeting with the trader
6. Follow-up letter and inspection

The first step (review of the Establishement file by the inspector) can yield valuable information regarding:

1. the trader's history of non-compliance
2. record of correspondence between the Department and the trader (eg. letters, information bulletins)
3. record of any concessions given to the trader
4. notice of any consumer and/or trader complaints (including any complaints made by this trader)
5. record of management turn-over (if available and if applicable)

As with any enforcement action, this information will help the inspector decide whether a Show Cause Hearing would be appropriate and effective in achieving compliance.

PROCEDURE FOR REQUESTING A SHOW CAUSE HEARING

The information that is gathered by reviewing the establishment file should be summarized on one sheet of paper for discussion with the Supervisor. Briefly outline:

1. Tombstone information (i.e., name, address, owner/manager)
2. Number and type of violations from last inspection and what action was taken
3. Brief run-down of previous inspections and any enforcement actions taken
4. Any concessions given
5. Record of complaints
6. Why Show Cause Hearing is the appropriate action at this time.

It is important that this information be brief because the Supervisor has more than one inspector to advise and will request more details if needed.

The Supervisor must always be informed about Show Cause Hearings because:

1. the Supervisor will likely have some valuable insight and advice to give the inspector
2. the Supervisor will likely have to chair the meeting and will have to sign the letter to the trader
3. the Supervisor may better be able to intrepret the information in the Establishment file
4. a Show Cause Hearing is a very serious enforcement action and the Supervisor must be aware of all serious enforcement actions.

PROCEDURE FOR REQUESTING A SHOW CAUSE HEARING

There are four significant elements which must appear in a letter to the trader requesting the traders presence at a Show Cause Hearing. These are:

1. State the event(s) which precipitated the request (eg., inspection, sample purchase, advertisement, refusal of request for information to verify claim).

2. Ensure that the correct person is addressed (i.e., owner, president or manager, copy to head office if chain or branch). The inspector should make every attempt to verify and update this information and continually update the plant profile sheet.

3. Establish a date by which the trader must respond (eg., 20 working days from the date which appears on the letter).

4. Signed by the Supervisor and sent by double-registered mail. Having the letter signed by the Supervisor removes the inspector somewhat from the situation, reinforces the seriousness of the meeting and, as the Supervisor will likely chair the meeting, the chair should call the meeting. The letter should be sent by double-registered mail to show proof of delivery.

PROCEDURE FOR CONDUCTING A SHOW CAUSE HEARING

Careful consideration of steps 4, 5 and 6 (i.e. information kit for participants, meeting and follow-up letter and inspection) will enable the Department to ensure the Show Cause Hearing has been an effective enforcement tool.

A very effective tool used by the Department to bring about compliance is to present the trader with the evidence the Department has gathered. The Information Kit is presented to the trader at the meeting and must include the following:

1. copies of inspection reports and worksheets
2. correspondence between trader and Department (need only list for Departmental representative)
3. agenda (see figure F6.1).

AGENDA - F6.1

PLACE:
DATE:
TIME: _____ TO _____

Meeting between _____ and Consumer and Corporate Affairs Canada.

AGENDA/MINUTES

I. Introduction of Participants
   A. Trader Representatives
   B. Department Representatives

II. Review of Last Inspection or Sample Purchase

   A. Responsible Inspector's Report: 1566# or 939#

   B. Trader's Comments:

III. Review of Establishment File

   A. Responsible Inspector's Report:

   B. Trader's Comments:

IV. Comments by the Chair

V. Conclusion

   A. Trader:

   B. Department:

With proper advance preparation, the actual meeting with the trader should be conducted confidently and professionally. It is important for the trader to feel relaxed but also to know that a Show Cause Hearing is an enforcement tool. A copy of the appropriate Act(s) should be readily available so that the Department can answer questions that might arise. It is also very important to follow the agenda so that the desirable end result might be achieved and to make the taking of minutes easier.

The minutes must include:

1. place
2. date
3. time
4. who attended
5. brief review of traders compliance history and traders response
6. comments made by the Department regarding its intention should the trader's compliance record not improve and for any commitments by the Department to assist the trader achieve compliance
7. any comments and/or commitments by the trader

It is essential to keep a copy of these minutes on file in the event that prosecution is ever necessary.

One of the most important elements of any enforcement action is quick and thorough follow-up action to see if the enforcement action is effective. The Show Cause Hearing is similar to other enforcement actions in this regard. In fact, it is especially important for quick follow-up to Show Cause Hearings to signify to the trader that the Department is serious about carrying out its mandate and to ensure that any commitments made by the trader are being kept.

The follow-up letter should be sent to the trader immediately after the meeting. It should be sent double-registered mail to ensure that delivery is made and it must include:

1. the minutes of the meeting
2. request for a written reply by a specified date regarding any commitments made by the trader
3. thank the trader for cooperation in attending the meeting.

Just as the follow-up letter is important so is the follow-up inspection. It must be done quickly and it must be done with both parties involved (trader and Department) aware that the end result could be prosecution action. With this in mind the inspector must consider the following necessities:

1. Complete and accurate note taking
2. Assurance of complete company name on all government forms
3. Verification of time entered and left
4. Complete and accurate worksheets
5. Descriptions of people spoken to (eg. clothes, colour of hair, height, build, etc.)
6. Descriptions of procedures used (eg. to verify scales, to choose samples, to weigh)
7. No collaboration of notes with other inspector (if applicable)

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Consumer products compliance

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