

**CHAPTER 2, SUBJECT 3****DETENTION/RELEASE****1. SCOPE**

This document outlines the policy, procedures and regulations governing the detention and release of fish and fish products.

NOTE: This does not address seizure of product under Section 7 of the *Fish Inspection Act* (see Chapter 2, Subject 4).

**2. AUTHORITIES**

*Fish Inspection Act*, R.S.C., 1970, c. F-12; Part I, Fish and Fish Containers.

*Fish Inspection Regulations* (FIR), C.R.C., 1978, c. 802; Part I, General.

*Section 8* (FIR)

(1) For the purpose of preserving the identity of any fish, an inspector may detain the fish by attaching to any of the fish or any container thereof a numbered tag upon which shall be clearly written

- (a) the word "held";
- (b) an identification number;
- (c) a brief description of the lot detained;
- (d) the date; and
- (e) the signature of the inspector.

(2) Where any fish is detained pursuant to subsection (1), the inspector shall deliver or mail to the owner or his agent a duly completed notice of detention.

(3) Where any fish is detained pursuant to subsection (1) on premises owned by a person who is not the owner of the fish, a copy of the notice of detention shall be delivered or mailed to that person.

(4) No person shall alter, deface or remove a tag attached to any fish or container thereof pursuant to subsection (1) or move, sell or dispose of any such fish or container thereof unless he has obtained a release from an inspector.

(4.1) Notwithstanding subsection (4), where it is necessary for any fish or container thereof referred to in that subsection to be moved from one warehouse to another, or the owner of the fish or container or his agent has made a reasonable request for the fish or container to be moved under detention, an inspector may permit such fish or container thereof to be moved accordingly.

(5) Where an inspector is satisfied that any fish detained pursuant to subsection (1) meets the requirements of these Regulations, he shall prepare a notice of release and deliver or mail one copy thereof to the owner of the fish or his agent and one copy to the person, if any, on whose premises the fish was found.

### **3. POLICY**

- 3.1 The *Fish Inspection Regulations* gives an inspector the authority to detain fish in order to preserve the identity of that fish.
- 3.2 Fish or fish products must be detained when a suspended inspection is offered, when the fish or fish product fails an initial inspection or when the fish product is on the Mandatory Inspection List. The inspector also has the option of detaining any lot of fish until an inspection is completed and the disposition of the lot decided.
- 3.3 Fish under detention remains under the control of the owner, although he/she cannot move the fish unless approval is given by the inspector.
- 3.4 A request for authorization to move fish under detention must be made in writing by completing the "Request for Movement of Fish Under Detention" (Appendix D).
- 3.5 Fish will remain under detention until all deficiencies have been corrected and the fish complies with the regulatory requirements, or the fish has been disposed of in a manner

acceptable to the CFIA or, in the case of imports, the fish product is removed from Canada.

- 3.6 When fish under detention has been dealt with so that it meets the regulatory requirements, it will be released.
- 3.7 There are no specified time limits for detention in the *Fish Inspection Regulations*, meaning that fish can be detained indefinitely. However, the initial inspection and reinspection processes must be implemented as soon as possible once the fish has been detained. Fish and fish products which do not comply with the regulations and have failed both initial inspection and reinspection, will be disposed of in a manner acceptable to the CFIA or, in the case of imports, removed from Canada (lots not in compliance with the labelling regulations will be detained until the labels have been corrected). The owner/agent shall have a maximum of 45 days following notification that the product has been rejected to take action. If the owner/agent fails to take action within the 45 days, the detained fish shall be seized (Seizure and Forfeiture, Chapter 2, Subject 4) and legal proceedings initiated.
- 3.8 In certain instances, long term detention of fish can occur (e.g., detention for minor can defects which will be re-canned at a later date). In such cases the location and disposition of the detained lot must be verified every 4 weeks.

NOTE: Inspectors are reminded that all *Fish Inspection Act* violations are summary conviction offences for which the limitation period is 6 months. Therefore, legal action must be initiated within 6 months of the date of the alleged offence.

#### 4. PROCEDURES

- 4.1 The fish to be detained must be identified as to species, size of lot, type of pack, markings and codings, if applicable, and location.
- 4.2 Fish should be detained on a lot basis. More than one lot of fish can be detained on the same Notice of Detention (Appendix B, with instructions) provided the lots contain the same species, the same type of pack and the same brand. A single detention notice should not be used to detain a mixture of product consisting of various brands, pack sizes and species.

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4.3 A Held Tag (Appendix A, with instructions) must be secured to any fish or containers thereof in a conspicuous place that will be clearly visible to any person examining the lot. It is preferable that one held tag be used. In cases where the lot is very large and is spread over a large area, more than one held tag may be used to ensure that the identity of the lot is maintained. In such cases, the held tags should bear the same number. The location of the held tag should be recorded in the inspector's note book and pointed out to the company official signing the Notice of Detention.

If a lot is broken into two or more portions and stored in several areas of a warehouse or cold storage, the inspector should try to have the entire lot stored in one area prior to detaining.

4.4 The Notice of Detention must be signed by a person with the proper authority (see Definitions). If the owner of the fish or the owner of the premises where the fish is stored is not available, the notice is to be signed by the person responsible for the storage of the product. If the company official refuses to sign, it must be noted on the Notice of Detention. If the company official refuses to accept the Notice of Detention, it is to be mailed to the owner/agent via registered mail.

4.5 The distribution of the Notice of Detention is as follows:

- (a) Original - to the owner of the fish
- (b) Copy 1 - to the owner of the premises where the fish is stored
- (c) Copy 2 - to the district file
- (d) Copy 3 - to the inspector's file.

4.6 Where the owner finds it necessary to move fish under detention, he/she shall request authorization by completing the "Request for Permission to Move Fish Under Detention" (Appendix D).

Authorization is granted by the inspector by completing the bottom portion of the form and forwarding a copy to the requesting company.

4.7 When detained product is moved between districts or regions, copies of the Notice of Detention, inspection reports supporting the detention, the Request for Permission to Move Fish Under Detention, the anticipated time of arrival and any other relevant information must be forwarded to the receiving district or regional office.

- 4.8 When fish under detention has had all deficiencies corrected, has been disposed of, or has been returned to the country of origin, the inspector will prepare a Notice of Release (Appendix C, with instructions).
- 4.9 When a portion of a lot of fish under detention complies with the regulations, that portion of the lot shall be released as above. The remainder of the lot not complying with the regulations will remain detained under the same Detention Notice.
- 4.10 The distribution of the copies of the Notice of Release is the same as for the Notice of Detention.

**5. FORMS/DOCUMENTS**

- Held Tag - Appendix A
- Notice of Detention - Appendix B
- Notice of Release - Appendix C
- Request for Permission to Move Fish Under Detention - Appendix D

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### HELD TAG

#### INSTRUCTIONS FOR COMPLETING THE HELD TAG

1. Product Description: species and product form (additional information to be written on the back of tag).
2. Lot Size: weight, number of cartons, number of cans, etc.
3. Marks: markings on cartons/shipping cartons which will identify the lot, such as codes, port marks, brand name, distribution/packer name, registration number.
4. Date-Place: date of detention, place of detention.

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**INSTRUCTIONS FOR COMPLETING  
THE NOTICE OF DETENTION**

1. The office of the inspector issuing the notice.
2. Date of detention.
3. The owner of the product.
4. Address of the owner of the product.
5. Location of the detained lot.
6. In the case of imported product specify the country of origin and if possible, the foreign producer.  
  
In the case of fresh water fish products specify the lake or plant.  
  
In the case of shellfish specify the area of harvest. For all other domestic fish products specify the processor.
7. "for the purpose of preserving the identity"
8. Held tag number.
9. Detailed description of the lot. If samples are taken, the number and weight should be indicated here.
10. Signature of owner or agent.
11. Signature of inspector.



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**INSTRUCTIONS FOR COMPLETING  
THE NOTICE OF RELEASE**

1. The office of the inspector issuing the notice.
2. Date of release.
3. The owner of the product.
4. Address of the owner of the product.
5. Entire detained shipment (indicated by weight or number).
6. Species and form of detained product.
7. Date of Detention.
8. A detailed description of the fish being released. Should include species, form, weight, number of cartons, codes, port marks, etc. If only a portion of the lot is released, this must be stated indicating how much remains under detention. If any product is destroyed it must be indicated in this section.
9. Held tag number.
10. Signature of inspector.

**REQUEST FOR PERMISSION TO MOVE FISH UNDER DETENTION**

Date: \_\_\_\_\_

Request made by: \_\_\_\_\_

Description of lot of Fish: \_\_\_\_\_

Date Detained: \_\_\_\_\_

Held Tag Number: \_\_\_\_\_

Detaining Inspector: \_\_\_\_\_

Location of the Fish: \_\_\_\_\_

I request permission to move the fish noted above: \_\_\_\_\_

Reason: \_\_\_\_\_

Location Change: \_\_\_\_\_

Date of Move: \_\_\_\_\_

Method of Movement: \_\_\_\_\_

Signature: \_\_\_\_\_

TO: \_\_\_\_\_

Request Granted: \_\_\_\_\_ Request Denied: \_\_\_\_\_

Fish under Held Tag Number \_\_\_\_\_ will be moved on \_\_\_\_\_

from \_\_\_\_\_ to \_\_\_\_\_ subject to the

following conditions:

\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_

Inspector