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11.1 **OBJECTIVE OF ACTIVITY**

Government enforcement of regulations and industry compliance is essential to ensure the well being of Canadians. Canada has adopted several laws relative to food production and inspection. The mandate to enforce these laws is delegated to the Canadian Food Inspection Agency. The inspectors and other enforcement officers, as individuals hired by the government, are given limited extra powers to discharge that responsibility on behalf of the whole community.

11.2 **REFERENCES**

[Canada Agricultural Products Act](#) (CAP Act)
[Egg Regulations](#)
[CFIA Enforcement and Compliance Policy](#)
[Food Investigation Response Manual](#) (RDIMS 4052577)

In addition to the material in this section the inspector should also be familiar with the CFIA's Enforcement & Compliance Policy, how it affects them, and how it pertains to the egg program.

11.3 **REQUIRED EQUIPMENT**

Equipment requirements will depend upon the type of inspection task being performed, for further information please refer to the applicable section of this manual

11.4 **REQUIRED FORMS**

Notice of Detention (CFIA/ACIA 3256)
Notice of Release From Detention (CFIA/ACIA 3257)
Action Plan (CFIA/ACIA 2280)
Inspector's Non-Compliance Report (CFIA/ACIA 5046)

11.5 **PRINCIPLES OF COMPLIANCE AND ENFORCEMENT**

All inspectors and enforcement officers are responsible for ensuring that regulated parties comply with the various Acts and regulations under the CFIA. They are required to respond to all reported or suspected infractions and take appropriate measures in accordance with the laws and policies.

At the operational level, enforcement must be tempered with common sense, sound judgment and discretion. Good public relations should be promoted, both on and off duty with a view to improving public understanding and gaining support for the enforcement and respect of the laws.

The Area/ Regional Enforcement Specialist will act as field investigation and enforcement consultant to inspection personnel, supervisors and managers; develop and provide enforcement training; participate in regional compliance workshops; conduct more complex investigations; prepare and supervise judicial proceedings.

By law, inspectors and enforcement officers have extraordinary authority and discretionary powers. They are, however, accountable to the courts, and to the administration of the Canadian Food Inspection Agency for the legal and proper exercise of their authority. Every care must be taken that this authority and power is properly used and its abuse strictly avoided. Adherence to this principle will do much to earn the respect of the public, serve as a stabilizing influence in the community, and achieve the objectives.

11.6 **DEFINITIONS**

Compliance: means the state of conformity with the law. The Canadian Food Inspection Agency will secure compliance with its Acts through two types of activities: education and enforcement.

Enforcement means the actions taken by the Canadian Food Inspection Agency staff to obtain and ensure compliance and how we respond to non-compliance.

Enforcement and compliance activities include:

- inspection, monitoring and auditing to verify compliance;
- responding to complaints of non-compliance;
- investigations of violations and offenses;
- warnings;
- mandatory recall orders;
- injunctions;
- refusal to issue or renew licenses, registrations or permits;
- suspension, revocation or cancellation of licenses

Education measures to secure compliance include:

- communication through the publication of information;
- consultation with parties affected by the Acts.

Inspection: Inspections are activities conducted to verify compliance with the Acts and regulations administered by the CFIA.

Investigation: Investigations are activities in response to non-compliance in order to recommend further compliance measures or enforcement action.

11.7 **APPLICABLE ACTS AND REGULATIONS****11.7.1** **CANADA AGRICULTURAL PRODUCTS (CAP) ACT**

This Act regulates the marketing of agricultural products in import, export and interprovincial trade and provides for national standards and grades of agricultural products, their inspection and grading, the registration of establishments, and for standards governing establishments.

11.7.2 **EGG REGULATIONS**

The *Egg Regulations* establish the national grade standards for shell eggs; require that egg stations be registered with the Canadian Food Inspection Agency if the Canada grade names are used; set the operating and maintenance requirements for operators of registered egg stations to promote sanitary practices; specify the requirements for the interprovincial, import and export movement of shell eggs; and provide the packing and marking requirements for graded shell eggs. The *Egg Regulations* fall under the *Canada Agricultural Products Act*.

11.7.3 **PROVINCIAL REGULATIONS**

For CFIA inspectors to have authority to enforce any provincial legislation we must first ensure that a working Memorandum of Understanding (MOU) exists between the CFIA & the appropriate provincial department(s) and that any inspector working under such an MOU is identified to do so under orders of the applicable provincial minister.

Currently, to enforce any provincial public health legislation, the inspector must be a member of the Canadian Institute of Public Health Inspectors. Otherwise, the principles

of an inspection and investigation is no different whether it is under provincial or federal legislation.

11.8 POWERS OF THE INSPECTOR

The authority and powers of the inspectors are limited to the Act(s) he or she is designated under. Each inspector's identification card will list, on the back, the Acts under which the inspector is designated. Inspectors should also have on file, a letter from the appropriate designation authority, indicating that they have been designated under certain Acts. Inspectors should make sure that their inspector's card has not expired.

11.8.1 STATEMENT ON POWERS

The CAP Act provides inspectors with both direct powers and indirect powers. Under direct powers the inspector may take specific action, while indirect powers allow inspectors to obtain assistance from persons in the establishment under inspection, and any relevant information required. For further details on the powers of an inspector, please refer to Table 1 below.

11.8.1.1 *Direct Powers*

The inspector may exercise direct powers when he or she believes on reasonable grounds that the Act or its Regulations have been contravened. It is important that these powers and restrictions be learned to avoid overstepping the authority granted. Examples of direct powers are:

- to enter
- to take samples
- to examine documents
- to make copies
- to detain
- to seize
- to open any container
- to examine or inspect any agricultural product

11.8.1.2 *Indirect Powers*

All reasonable assistance will be provided to an inspector by the owner or person in charge of a place, and every person found in the place that is entered by an inspector. In addition, an inspector will be provided with any information relevant to the administration of Acts that they are designated under.

Table 1: Powers of Inspectors and Related Provisions - Canada Agricultural Products Act (CAPA), Food & Drugs Act (FDA), Consumer Packaging and Labelling Act (CPLA) and CFIA act.

POWER	SECTION			
	CAPA	FDA	CPLA	CFIA Act
Enter and Inspect	21 (1)	23(1) 23(1)(a.1)	13(2)	--
Stop a Vehicle	21 (1)	--	--	--
Open Containers and Packages	21 (1)(a)	23(1)(b)	13(2)(b)	--
Inspect any Agricultural Product	21 (1)(b)	23(1)(a)	13(2)(a)	--
Take Samples <i>(free of charge under CAP Act)</i>	21 (1)(b)	23(1)(a)	--	--
Production / examination of documents	21 (1)(c)	23(1)C	13(2)c	--
Operating of data processing systems and copying equipment	21 (2)	--	--	--
Require reasonable assistance for carrying out inspector's duties	21 (3) 22(4)	23(3)	13(3)	--
Enter a dwelling-place with the consent of the occupant or under the authority of a warrant	22 (1) 22(2) 22(3)	23(1.1) 23(1.2) 23(1.3)	13(2.2) 13(2.3)	--
Seizure and detention	23	23(1)(d)	15(1)	--
Storage and Removal of seized and detained products	25 (1)	25	15(5)	--
Disposition of or destruction of a seized or detained perishable product	25 (2)	--	--	--
Removal of illegal imports / Forfeiture and disposal of illegal imports	30 (1) 30 (2)	--	--	--
Length of detention	27 (1)(b) 180 days	26 no limitations	15(4) 180 days	--
Recall Order (Ministerial power)	--	--	--	19(1)
Withdraw or withhold service from a person who fails to pay the inspection fee	--	--	--	29(2)

11.9 **COMPLIANCE METHODS****11.9.1** **EDUCATION**

The Canadian Food Inspection Agency believes that information and education are effective tools in securing conformity with the law. Accordingly, the Canadian Food Inspection Agency undertakes education and communication in the form of Website notices, letters to industry/ public, presentations to industry groups etc.

11.9.2 **COMPLIANCE MONITORING**

Compliance monitoring is conducted to verify that activities governed by the Acts are carried out in compliance with those Acts. Compliance monitoring includes:

- inspections conducted by officials authorized under the Acts and involves visual inspections, sample analysis, laboratory analysis, examining documents and facilities, etc., and
- reporting of information by inspectors in accordance with requirements under the Acts, and their associated regulations.

11.9.3 **INVESTIGATION**

There are clear differences between inspections and investigations. At no time should the term investigation be used when an inspection is being conducted. An investigation is typically conducted by the regional investigation specialist.

11.10 **OFFENCES**

Offences are contraventions under any of the Acts regulated by the CFIA which may be proceeded by way of prosecution.

11.11 **ENFORCEMENT RESPONSES TO OFFENCES**

Enforcement responses may be broken into three categories: actions with respect to individuals and companies, actions in respect of products, things or equipment, and actions in respect of registration

11.11.1 **ACTIONS WITH RESPECT TO INDIVIDUALS AND COMPANIES**

Enforcement actions often will be taken up with the company under investigation. These actions include warnings and prosecution.

11.11.1.1 ***Warnings***

A warning may be used if, in the opinion of the inspector and/or Area Specialist and/or Inspection Manager, it will have an appropriate deterrent effect and/or if further non-compliance on the same matter may lead to further enforcement actions such as prosecution or suspension/cancellation of registration.

For example, a warning letter would be appropriate in the following situations:

- A plant fails to complete an action plan that was generated due to failure to make correction to an item on the sanitation report that is repetitive in nature.

- Failure to pay a cost recoverable fee
- A sample, other than a monitoring, is unsatisfactory
- Breaking of detention
- Interfering with an inspector

A written warning should include:

- The section of the *CAP Act* or *Egg Regulation* that has been violated.
- A short description of the offence.
- A request for submission of plans for corrective actions if applicable.
- A time limit for corrective action to be undertaken.
- A statement that officials will take further enforcement action if appropriate corrective action is not carried out.
- A statement to the effect that this warning is a record of the infraction and will be placed on the violator's compliance record.

11.11.1.2 Prosecution

The recommendation to proceed to prosecution will be made by the Regional Director.

Prosecution may be recommended when any regulated party acts wilfully or with negligence and whose actions pose a significant health and safety hazard or constitute significant fraud;

The extra cost of proceeding to prosecution can only be justified if there is an additional deterrent effect on the regulated party and other potential violators.

11.11.2 ACTIONS IN RESPECT OF PRODUCTS, THINGS OR EQUIPMENT

There are a variety of enforcement actions that will be used in response to violative products, things or equipment.

11.11.2.1 Seizure and Detention

Seizure and detention of regulated products, equipment, or other things is generally appropriate when an offence is suspected, and when:

- there is an offence that poses a health and safety risk, or creates unfair competition to other compliant products; or
- the violator exhibits an unwillingness to comply by removing product from the market or in taking corrective action to bring the product into compliance.

Seizure and Detention of regulated products can be maintained until:

- the product is brought into compliance;
- court proceedings have been instituted; or
- the statutory time limitation expire.

This enforcement response is considered one of the most expeditious and effective tools at our disposal to promote compliance.

11.11.2.2 Forfeiture

Forfeiture can occur where:

- under the *Canada Agricultural Products Act*, imported shipments not in compliance are not removed from Canada as specified;
- when a person consents to it; or
- when a Court makes such an order

Forfeited products will be disposed of as provided for in the Court order or as directed by the inspector as provided for in the Act and will generally be at the expense of the person from whom the product was seized.

11.11.2.3 Disposal

The *Canada Agricultural Products Act* allows for the disposal of perishable products, as well as the disposal of seized product that has been forfeited. The *Food and Drugs Act* allows for the disposal of seized products with the consent of the owner or person in possession of the product at the time of its seizure.

11.11.2.4 Removal of Imports

Under the authority of the *CAP Act*, CFIA inspectors may order the removal from Canada of eggs that do not comply with Canadian import requirements for documentation, grade standards, health and safety standards, or eligibility to ship to Canada in accordance with requirements under the *Egg Regulations*.

11.11.2.5 Refusal to Certify for Export / Inter-Provincial Shipments

CFIA inspectors may refuse to certify for export eggs that do not meet the requirements under the *Egg Regulations* and/or those of the importing country.

11.11.2.6 Storage and Removal of Eggs Seized and Detained

CFIA inspectors may direct eggs to be stored at the place they were seized or any other place for storage at the expense of the owner of the eggs or person in possession of them.

11.11.3 ACTIONS IN RESPECT OF REGISTRATIONS**11.11.3.1 Suspension**

Under the *Canada Agricultural Products Act*, suspension is used as a means to quickly prohibit the operation of an establishment. When an inspection reveals that the Act and/or *Egg Regulations* are being violated to the extent that the health of the public is jeopardized by the product being graded and the operator fails, or is unable to take immediate corrective action then regulatory steps may immediately be taken to suspend registration. However, procedures outlined in **Appendix I** of this document, should be followed when initiating a suspension and/or cancellation.

11.11.3.2 Cancellation

Under the *Canada Agricultural Products Act*, procedures for the cancellation of registration of establishments are generally initiated following suspension of any registration undertaken when an establishment has a history of chronic or ongoing contraventions of the CAP Act and/or *Egg Regulations*. Procedures are outlined in **Appendix I** of this section pertaining to notification of establishment concerning deadlines for corrective actions, opportunities for hearings and notification of cancellation.

11.11.4 OTHER ACTIONS**11.11.4.1 Publicity**

Publicity of regulatory activities is a useful tool for notification of the compliance status of the regulated industry, thereby encouraging better compliance and informing the public.

Generally the Canadian Food Inspection Agency will publicize prosecutions. Information protected under the Access to Information Act or the Privacy Act will not be made public.

11.11.4.2 Action Plans/Corrective Action Agreements

Corrective action agreements may be appropriate if such action will be sufficient to provide protection from harm. While agreements are not specifically authorized by legislation, there are often legislated options that can be used to enforce them if industry does not adhere to them. Examples of these agreements are actions to improve facilities, or withdrawal or recall of a product which is not in compliance.

An agreement should embody all terms agreed to by the parties and be signed by both parties.

The CFIA monitors the actions included under these agreements and may require the company or individual involved to submit detailed reports on follow-up actions being taken.

11.11.4.3 Recalls

Under section 19 of the Canadian Food Inspection Act mandatory recall orders may be issued.

The process to be followed in the event of a Food Recall can be found in the Food Investigation Response Manual on Merlin. Inspectors may find information about food recalls internally on Merlin at <http://merlin.cfia-acia.inspection.gc.ca/english/fssa/recarapp/recarapproce.asp>

11.11.4.4 Injunctions

Under section 18 of the Canadian Food Inspection Act the CFIA may pursue the courts to place an injunction on a company or individual(s) preventing them from continuing to operate.

Examples where such an action may be carried out are:

- All enforcement measures have been exercised and the company or individual(s) continue to operate in contravention of legislation administered by the CFIA.
- Where the CFIA is in the process of a prosecution action against a company or individual and allowing the company or individual to continue operating would put the public at risk.

11.12 LIABILITY

11.12.1 GENERAL

Inspectors must take every precaution to only deal with the facts as they relate to offences and maintain an impartial attitude.

The inspector will not put themselves in the position of liability by:

- Advising anyone how to achieve compliance in a detention report, corrective action report or any other applicable communication. If there are only a couple of options that are available, the inspector may identify these but he must be absolutely sure that the list of options is complete.
- Carelessly sending communications by e-mail, fax, etc. which may compromise the CFIA's position. These may be used in a court of law against the CFIA if it is found that any communication exceeds the scope of the investigation.
- Improperly applying legislation or incorrectly completing inspection documents.

Any formal communications with someone who has violated the act or regulations should always include reference to the specific legislation in that communication.

11.12.2 ENTRY

An inspector must exercise caution when entering a house or dwelling to conduct any inspection or investigation activities. The Inspector can only enter if invited, otherwise the inspector would need a search warrant to carry out any inspection or investigation activities. It is for this reason that we do not register facilities located in a house or dwelling where there is no physical separation from the living quarters and a separate entry from outside directly into the registered facility.

11.13 INVESTIGATIONS & EVIDENCE

Before any inspection becomes an investigation, with the potential of prosecution, it must be recommended for such action as outlined in Section 14 of CFIA's Enforcement and Compliance Policy.

Once an inspection becomes an investigation, the inspector may have to gather further evidence and information from a variety of sources relevant to a suspected offence. The purpose of this evidence is to establish if an offence had actually been committed, whether or not there was intent to commit an offence, and who committed the offence.

11.13.1 DOCUMENTARY EVIDENCE

Documents typically gathered as evidence are inspection reports, photographs, videos, bills of lading, invoices, inspector's notes, etc. Documents that do not belong to the inspector should be photocopied, or a hand written facsimile or printed copy should be

made. The person in possession of the documentation is not obliged to give the inspector the originals.

Inspector's notes are an important part of any investigation because they provide details related to the offence. The inspector should never rely on memory alone. The notes should be specific, precise, clearly written in pen (not pencil) and in sequence. Pages of inspector's notes should be numbered and identified (name, date, location, and employer). If corrections are needed, pages should not be removed from the notebook, nor should text be erased or white out used. A line should be run through the error and the correction entered above. Corrections should be initialled.

11.13.2 INTERVIEWS

Gathering information from people can be very difficult when emotions and other factors come into play. Good interviewing skills will help when taking witness statements. The format of the interview should answer the following:

- Who - identify full name, address, etc. of who you spoke to
- Where - specific description of location and date
- When - time of interview and time period of interview
- What - factual description of incident
- Why - information is sought
- How - details of incident, how statement was taken, conditions of area and of person interviewed

The interview itself should establish as much information about the offence as possible.

11.13.3 REAL EVIDENCE

Real evidence can be gathered in a number of ways including purchasing, receiving it from a complainant, or seizure. In every case the inspector should ensure that the evidence is secured and made tamper proof for it to be acceptable in any legal proceedings. This usually includes placing the evidence in a tamper proof container, marking it to positively identify it and placing it in a secure location. For instructions on how to tamper proof real evidence, please see [lab sampling procedures](#), outlined in chapter 6 of this manual.

11.14 SEIZURE AND DETENTION OF EGGS

This section describes the powers of the inspector and the procedures for the seizure and detention of shell eggs. These procedures must be closely followed to ensure that no legal problems will be encountered because the detention documents have been inaccurately filled out.

11.14.1 POWERS OF THE INSPECTOR

The provisions of Section 15 of the *Canada Agricultural Products Act*, enacted in 1988, state that every agricultural product legend and every grade name, created by Regulations pursuant to this Act, is a national trade mark. Therefore, any agricultural product that bears a Canada grade name if seized or detained by an inspector should be done so using federal seizure and detention forms.

This applies to all eggs whether or not they have moved interprovincially, intraprovincially or are seized at point of application of the grade name.

Seizure and detention is intended as a means of dealing with cases of improper grading, packing or marking of eggs. Inspectors are provided with powers under the Section 23 of the Act to apply detentions in cases where they believe on reasonable grounds that

an offence has been committed. The basic purpose for detention is to effect correction of improperly graded, packed or marked eggs.

In practice, when it is found necessary to apply a detention, the person held responsible, (the person to whom the detention is assessed) is the person found in possession of the product. However, the person in possession may not be legally responsible for the condition or sub-standard quality of the product since a consideration of all the facts concerning the offence may indicate that the supplier or original grading station is the responsible party.

11.14.2 DETENTION PROCEDURES

1. In the application of detention, a Notice of Detention (CFIA/ACIA 3256) is applied as directed in Part VI of the *Egg Regulations*. This form has space for recording the amount and description of product seized. Inspectors should always make certain that names, dates, places, quantities, etc., are accurate on detention documents. While inspectors may feel that these minor details are not important, it is such lack of detail that makes prosecutions fail strictly on technicalities.
2. At the time eggs are detained, any inspector's report such as the Shell Egg Inspection Report (CFIA/ACIA 4196) or Egg Station Inspection/Rating Report (CFIA/ACIA 3761), should be completed in order to provide precise details in respect to the infraction and should be signed by the inspector and the person in possession of the eggs. Sufficient copies are prepared for all offices concerned, with the original to the person in possession of the product.
3. The Notice of Detention (CFIA/ACIA 3256) is a set of Notices' of Seizure and Detention forms with the last copy in the set titled "Detention Tag". This tag is affixed to the product when the document is completed. Each copy of the set including the Detention Tag bears the same Detention Number. If additional copies are available bearing no Detention number in the back of the pad, the corresponding Detention number would be applied in the space provided.
4. The distribution of the Notice of Detention (CFIA/ACIA 3256) is as follows:
 - Original for person in possession of product
 - 1 copy for the inspector
 - 1 copy for the Area/Regional Office
 - 1 copy to person undertaking correction

The Detention Tag portion of the set is affixed to one container of the product.

- The "Authority to move product or other things under detention", part of the Notice of Detention (CFIA/ACIA 3256), is completed only if product is authorized by an inspector to be moved from the place of seizure to other premises for correction or storage.

Inspectors do not possess authority to arbitrarily direct detained product to a station of their choice for correction. They may counsel the owner of the detained eggs, but the ultimate choice of a station to correct the product must rest with the owner. If the owner refuses to undertake action to correct the product, the product must remain under detention and the inspector should file a report with their Inspection Manager subsequent to alerting him of the situation. The key point is that the owner of the eggs is in contravention of the *Egg Regulations* by having in his possession eggs that do not comply with the grade or are not packed or marked properly. If the owner of the eggs disposes of the product before release from detention, or moves product without the

authority of the inspector, this constitutes an offence under section 19(5) of the *Canada Agricultural Products Act* and 33 (2) of the *Egg Regulations*.

Section 27 of the *CAP Act* prescribes that eggs may be detained up to a period of 6 months from the date of seizure unless correction or prosecution has occurred in the interim. Detained eggs should be promptly regraded or otherwise made to comply with the *Egg Regulations* in order to minimize unnecessary deterioration.

There are some instances where detention may be waived such as the regrading or remarking of a lot of eggs in a registered egg station in the presence of an inspector, or when an inspector regrades a small lot of eggs (up to 30 dozen) in a retail store.

11.14.2.1 ***Additional Comments on The Notice of Detention (CFIA/ACIA 3256)***

Section of Act (Box 2)

- Indicate the appropriate section of Act pertaining to seizure which is to indicate which section of the Act gives an inspector the authority to seize.
- For the CAP Act and all regulations under the CAP Act, it is always section 23.

Reason for Seizure and Detention (Box 10)

- Indicate the section of Act/Regulations under which the contravention occurs (if both do not apply, delete one).
- To seize, there must be a legal reason and normally there is a provision in the regulation - indicate this provision number.
- There are only two sections of the *CAP Act* that need to be considered as being possibly violated, and if so, would need to be cited on the notice of detention. They are sections 16 and 17.
- Section 16 prohibits the use of the similar agricultural product legend or grade name, or the marketing of such product - an infrequent situation.
- Section 17 - "No person shall, except in accordance with this Act or the regulations,
 - (a) market an agricultural product in import, export or interprovincial trade;
 - (b) possess an agricultural product for the purpose of marketing it in import, export or interprovincial trade; or
 - (c) possess an agricultural product that has been marketed in contravention of this Act or the regulations"
- Whenever there is an offence or seizure due to an infraction of the import/export/interprovincial requirements, section 17 of the Act should be cited as well as the pertinent section of the regulations.

11.14.2.2 ***Detention Procedures When Two Regions/Areas Are Involved***

If product from another Area/Region is detained, copies of the "Notice of Detention" and details of the inspection, should be sent immediately to the Area and/or Regional Office in the originating Area/Region.

If there is a substantial amount of product involved or if it appears probable that an appeal may arise, the inspector should immediately contact his supervisor. The Regional Office will then contact the Area Program Specialist and the inspection supervisor in the originating plant.

If product is corrected in the receiving Area, copies of release documents should be sent to the originating Area when product is corrected.

If the product is moved for correction to an egg grading station under the responsibility of another inspector, the "Authority to Move" section of the detention report is completed and the copy of the Notice of Detention form is to be forwarded to the inspector responsible for releasing the eggs. In return, that inspector will forward a copy of the Notice of Release From Detention (CFIA/ACIA 3257) to the inspector who originally detained the product.

11.14.3 RELEASE FROM DETENTION

When detained product has been regraded (or otherwise brought into compliance) and upon reinspection is found to meet regulations, a Notice of Release from Detention (CFIA/ACIA 3257) is completed by an inspector. A copy of the release is distributed to all parties originally receiving a Notice of Detention (CFIA/ACIA 3256). Care should be taken to record the respective detention number on all copies of the release document.

The Name and Address section of the form is completed with the information of the party to whom the detention was issued. This is the party that is responsible for ensuring correction of the non-compliant product. If a station other than the responsible party is designated to make the corrections, this station is to be identified in the remarks section of the release. The following statement is appropriate wording to include in the remarks section:

"Eggs covered by Detention #_____ are hereby released at (Company X), (Address of Company X), (Registration Number of Company X)."

If the responsible party chooses to relabel the product to a lower grade rather than regrade it, and the inspector believes that the product will meet this lower standard based on the original examination then no re-examination is necessary. However, the inspector must include a notion on the release explaining the cause for release."

Copies of these forms are distributed in the same manner as the Notice of Detention (CFIA/ACIA 3256).

11.14.4 ASSEMBLY OF DETENTION AND RELEASE DOCUMENTS

The assembly of a completed set of detention and release reports is as follows:

- The top form or the No. 1 form in the sequence is always the form on which the details of examination are placed. Egg Station Inspection/Rating Report (CFIA/ACIA 3761) is to be used.
- No. 2 form is always the Notice of Detention (CFIA/ACIA 3256) and the name of the recipient of this notice is always the person in possession of the product undergoing detention. The Notice of Detention (CFIA/ACIA 3256) also covers the "Authority to move product or other things under detention" which is completed when required.
- The No. 3 form in the sequence is the details of examination for release and the Notice of Release From Detention (CFIA/ACIA 3257). The recipient is the person on whose premises the product is corrected.

- The fourth document is the "Detention Tag" from the Notice of Detention (CFIA/ACIA 3256), and is attached to the set of detention documents intended for file in the local or responsible office.

11.15 **OTHER THINGS FOR THE INSPECTOR TO CONSIDER**

The CFIA has a number of policies available on Merlin which they should be aware of

1. What to do when a lawyer contacts you
<http://merlin/english/legjur/pol/callse.asp>
2. How to prepare a request for legal advise
[Requesting Service](#) (RDIMS 3463651)

This request will not be completed by the inspector but the inspector should be aware of this procedure so they know when it may apply and, when it does apply, what kind of information they may need to supply the person forwarding the request.

Appendix I - Deregistration protocol for egg stations

These guidelines are prepared to detail and coordinate the various actions to be taken, as well as their sequence, to suspend or cancel a registration of an egg station issued under the *Egg Regulations* mandated under the *Canada Agricultural Products Act*.

CERTIFICATE OF REGISTRATION

A certificate of registration is issued when the necessary documentation is submitted and it is shown that the establishment and equipment meet the requirements of Sections 7 to 9 of the *Egg Regulations*, as outlined in the Registration section of this manual.

There are several instances under which a certificate of registration will lapse or be suspended: operator's decision to cease operation (voluntary closure); non-operation as an egg station (lapse); failure to obtain a new certificate of registration when ownership of a station changes; the egg station does not meet the requirements of the *CAP Act* or *Egg Regulations* or any other federal legislation applicable to it; the operator does not comply with the provisions of the *CAP Act* or *Egg Regulations* or any other federal legislation applicable to the operator in respect of their operation of the egg station; the operator has failed to pay a fee prescribed by the *CFIA Fees Notice*.

Please note that a voluntary closure or lapse of registration due to non-operation are not considered "Suspensions or Cancellations" and should never be referred to as such in any communication.

1. Voluntary Closure

When an egg station closes due to a decision of the owners, the inspector is to obtain the station's certificate of registration along with a letter from the operator stating they have ceased grading eggs and no longer wish to be registered, and providing the effective date. If the certificate cannot be located, the inspector is to send a letter to the Area Egg Specialist indicating this. The Area Egg Specialist forwards the registration certificate and letter to the Chief, Egg Programs in Ottawa.

The station is deleted from the list of registered egg stations operating in Canada, and a letter is sent to the egg station operator by the Area Egg Specialist confirming the closure and advising them that if they wish to grade eggs in the future, that they must apply for registration.

To avoid confusion, the registration number will not normally be re-issued for a period of two years

2. Non-operation

Under section 7(6) of the *Egg Regulations*, a certificate of registration will lapse if the premises for which the certificate was issued has not graded eggs for a period of 12 consecutive months. When an inspector becomes aware that an egg station has stopped operating, they are to record the last day of operation in the station's file. When the egg station has not operated for eleven consecutive months, a letter is sent to the operator by the Area Egg Specialist informing them of the date on which their certificate of registration will lapse and they will no longer be able to apply a Canada grade name due to non operation. This letter should be sent one month prior to the expiration of the twelve month period.

Once the 12 consecutive months have passed and the egg station has not graded any eggs, the inspector is to obtain the station's certificate of registration. If the certificate cannot be located, the inspector is to send a letter to the Area Egg Specialist indicating this. The Area Egg Specialist forwards the registration certificate or letter to the Chief, Egg Programs in Ottawa.

The station is deleted from the list of registered egg stations operating in Canada, and a letter is sent to the egg station operator by the Area Egg Specialist confirming the closure.

To avoid confusion, the registration number will not normally be re-issued for a period of two years.

3. Failure to obtain a New Certificate of Registration after a Change of Ownership

A certificate of registration will lapse if a new operator of an egg station fails to obtain a new certificate of registration within 60 days after the day on which the change of operator occurs, unless an extension has been granted by the Area Egg Specialist due to extenuating circumstances. In all cases, a letter is sent to the egg station operator by the Area Egg Specialist informing them of the requirement to obtain a new certificate of registration and the deadline for doing so.

4. Suspension and Cancellation Protocol - B Rating Stations

In the event that an egg station has failed to comply with the B rating protocol, the following steps shall be initiated to either correct the problems of non-compliance or lead to the suspension or cancellation of the certificate of registration to operate as an egg station. Each step must be completely documented to ensure that the egg station operator understands their responsibility and the consequence of the failure to comply with the requirements. The protocol is meant to be a step by step process which can be stopped at any time if compliance of the station is achieved. Please see Appendices II and III for visual flow charts of the protocol.

(I) Documentation

A description of the non-compliance(s) and all associated documents which initiated the suspension/cancellation process is forwarded to the Area Egg Specialist. For each problem, the specific section of the Act or Regulations in contravention must be referenced in the documents.

(ii) Meeting

A meeting is held between the inspection manager and/or Egg supervisor, and/or regional program officer, inspector, Area Egg Specialist and the station operator to present them with an inspection report describing the non-compliance(s) that led up to the meeting, and explain the possibility of suspending their egg station registration should non-compliance continue. An action plan (CFIA/ACIA 2280) including deadlines could be developed from this meeting if all parties agree and a commitment is gained for the resolution of the problems. The station operator may also present a prepared written action plan. At this meeting, it must be made clear to the station operator that the next step would be the suspension of their registration should non-compliance continue. If the action plan is accepted, a letter is written to the station operator to inform them that their action plan has been accepted and the deadline by which the situation must be remedied to avoid suspension.

As an alternative to a meeting, a registered letter is sent to the station operator outlining the non-compliance(s) and possibility of suspending their egg station registration should non-compliance continue. This letter is to include deadlines by which the situation must be remedied to avoid suspension.

(iii) Follow-up to Meeting

Follow up inspections are performed following the meeting to verify that any Action Plan and commitments are completed as agreed and that the station compliance level rises to an acceptable level. The follow up section of the action plan (CFIA/ACIA 2280) is completed and an inspection report from the follow up is sent to the Area Egg Specialist, inspection manager, egg supervisor and/or regional program officer.

For sanitation non-compliances, the station requires five consecutive acceptable sanitations and all action items addressed.

For product non-compliances the station must have five consecutive lots of product pass inspection and at least four of the next five lots pass inspection.

(iv) Continued Failure to Comply

If the operator has not corrected the non-compliance(s) as outlined in the action plan, the Regional Director will forward a suspension package which includes the recommendation for suspension, draft suspension letter, and all related documentation completed to this point to the Area Program Manager. The Area Program Manager forwards the package to the Director, Agrifood Division in Ottawa.

(v) Suspension of Registration

The notice of suspension is signed by the Director, Agrifood Division and is delivered to the egg station operator. Once the certificate of registration is suspended, the operator will not be eligible to apply Canada grade names to eggs.

(vi) Cancellation of Registration

The registration of an egg station can be cancelled if the egg station operator does not correct the problems that led to their suspension within 30 days. The certificate of registration cannot be cancelled unless the operator was advised of an opportunity to be heard and a notice of cancellation was delivered to the operator. When the certificate of registration has been cancelled, the inspector or their supervisor obtains the certificate of registration and forwards it to the Area Egg Specialist. If the certificate cannot be located, the inspector is to send a letter to the Area Egg Specialist indicating this. The Area Egg Specialist forwards the registration certificate or letter to the Chief, Egg Programs in Ottawa. The station is deleted from the list of registered egg stations operating in Canada.

5. Suspension and Cancellation Protocol - Other Than B Rating Stations

Under Section 7 of the Egg Regulations, the CFIA has the authority to suspend or cancel the registration of an egg grading station for reasons other than an establishment having a B rating.

The following are examples where the CFIA can exercise this authority:

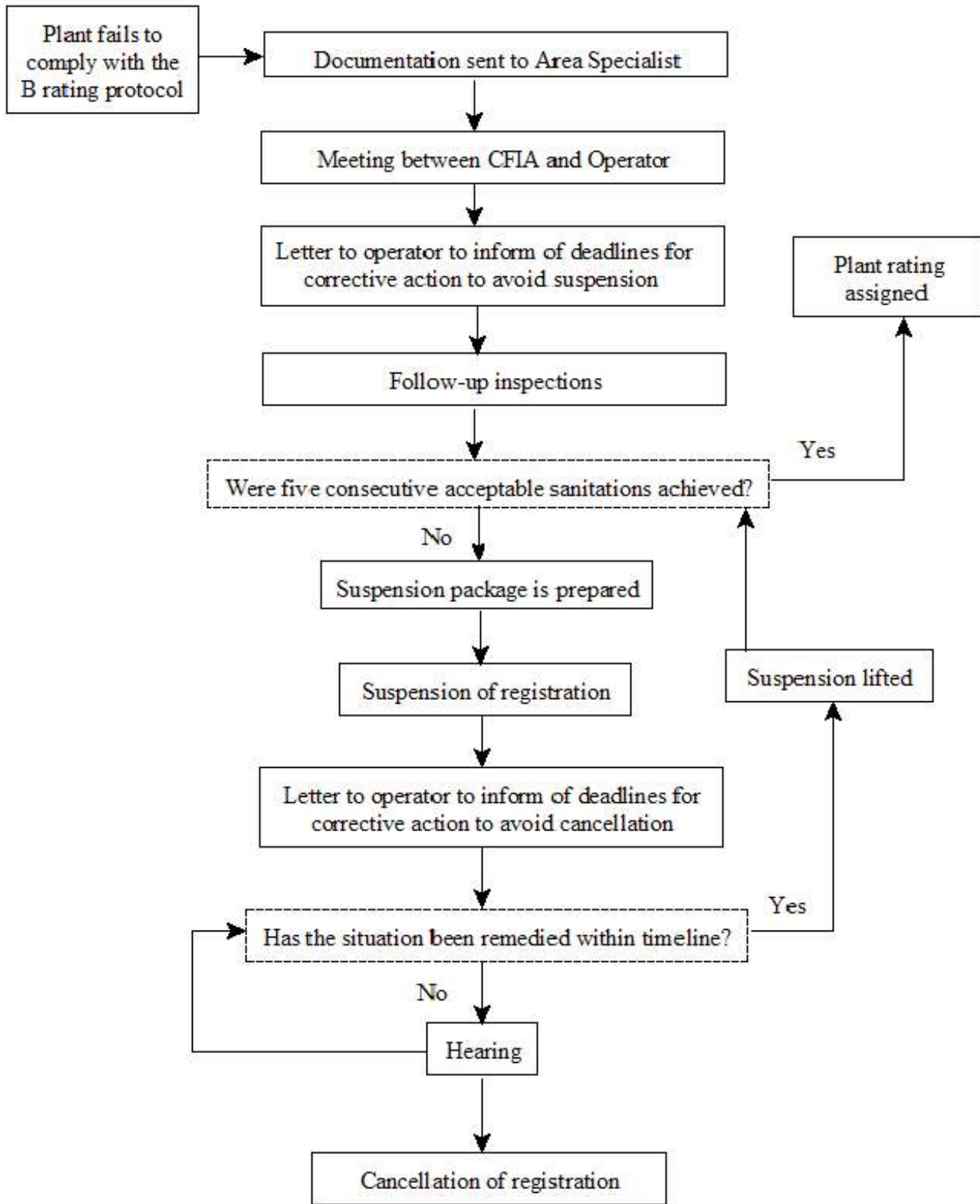
- Where the application for registration contains false or misleading information
- Where public health is endangered if the station is allowed to continue operating (immediate suspension)
- Failure to comply with the requirements of the Act or Regulations
- Where the operator and inspector have agreed in writing, to make corrections within a specified time frame and the operator has failed to comply.
- Failure to bring the establishment into compliance with registration requirements
- Failure to make corrections to container markings
- Failure to pay a fee prescribed by the CFIA Fees Notice
- Repeated wash water failures
- Repeated environmental sampling failures

The steps taken to suspend and cancel a registration certificate for reasons listed above are the same as the procedures for a B-rating station, the exception being an immediate suspension where public health is endangered.

6. Operation Without a Certificate of Registration

If an egg station operates and applies Canada grade names without a valid certificate of registration it will be in contravention to Section 32 of the *Canada Agricultural Products Act* and would therefore be subject to prosecution under this legislative mandate. It may also be in contravention of concurrent provincial legislation, and prosecution could also result under provincial legislation.

Appendix II - Suspension/Cancellation protocol flow diagram for sanitation problems



Appendix III - Suspension/Cancellation protocol flow diagram for product problems

