

§ 1.382

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(d) You must submit your request for modification of the detention order in writing to the authorized FDA representative who approved the detention order. You must state in your request the reasons for movement; the exact address of and location in the new facility (or the new location within the same facility) where the detained article of food will be transferred; an explanation of how the new address and location will be secure, if FDA has directed that the article be detained in a secure facility; and how the article will be held under any applicable conditions described in the detention order. If you are requesting modification of a detention order for the purpose of destroying the detained article of food, you also must submit a verified statement identifying the ownership or proprietary interest you have in the detained article of food, in accordance with Supplemental Rule C to the “Federal Rules of Civil Procedure.”

(e) If FDA approves a request for modification of a detention order, the article may be transferred but remains under detention before, during, and after the transfer. FDA will state any conditions of transportation applicable to the detained article. You may not transfer a detained article of food without FDA supervision unless FDA has declined in writing to supervise the transfer. If FDA has declined in writing to supervise the transfer of a detained article, you must immediately notify in writing the authorized FDA representative who approved the modification of the detention order that the article of food has reached its new location, and the specific location of the detained article within the new location. Such written notification may be in the form of a fax, e-mail, or other form as agreed to by the authorized FDA representative.

(f) You must ensure that any required tags or labels under § 1.382 accompany the detained article during and after movement. The tags or labels must remain with the article of food until FDA terminates the detention order or the detention period expires, whichever occurs first, unless otherwise permitted by the authorized FDA representative who approves the modi-

fication of a detention order under this section.

(g) The transfer of an article of food in violation of a detention order issued under § 1.393 is a prohibited act under section 301 of the act.

§ 1.382 What labeling or marking requirements apply to a detained article of food?

The officer or qualified employee of FDA issuing a detention order under § 1.393 may label or mark the detained article of food with official FDA tags or labels that include the following information:

(a) A statement that the article of food is detained by FDA in accordance with section 304(h) of the act;

(b) A statement that the article of food must not be consumed, moved, altered, or tampered with in any manner for the period shown, without the written permission of an authorized FDA representative;

(c) A statement that the violation of a detention order or the removal or alteration of the tag or label is a prohibited act, punishable by fine or imprisonment or both; and

(d) The detention order number, the date and hour of the detention order, the detention period, and the name of the officer or qualified employee of FDA who issued the detention order.

§ 1.383 What expedited procedures apply when FDA initiates a seizure action against a detained perishable food?

If FDA initiates a seizure action under section 304(a) of the act against a perishable food subject to a detention order under this subpart, FDA will send the seizure recommendation to the Department of Justice (DOJ) within 4 calendar days after the detention order is issued, unless extenuating circumstances exist. If the fourth calendar day is not a working day, FDA will advise the DOJ of its plans to recommend a seizure action on the last working day before the fourth calendar day and send the recommendation as soon as practicable on the first working day that follows. For purposes of this section, an extenuating circumstance includes, but is not limited to, instances when the results of confirmatory testing or other evidentiary