Q&A Sheet: Fresh Produce Sampling, Positive Test Notifications, and Recall Actions

This resource is intended to help food safety personnel, managers, business owners, and other stakeholders navigate fresh produce sampling conducted by regulatory entities.

1. What government entities conduct sampling and testing of fresh produce?

Sampling may be conducted by:

- **Federal agencies** such as the U.S. Food and Drug Administration (FDA) for domestic surveillance and import control programs.
- **State departments of agriculture** or **other public health agencies**, either under their own authority or through cooperative agreements with the FDA.

2. Where might fresh produce be sampled in the supply chain and why?

Sampling can occur at multiple points, including cooling facilities, broker locations, distributor warehouses, and retail stores. Sampling may be performed to detect microbial pathogens or chemical contaminants or support outbreak investigations or recall actions.

3. What should I do when a customer (such as a broker or distributor) notifies me that my product has been sampled and tested positive?

If you receive notice that your product tested positive, immediately request all supporting documentation to confirm whether the product is indeed yours. Traceability errors have occurred in the past, leading to incorrect product identification. Ask for a full data package, including:

- Photographs of packing/labeling
- Product identifiers (brand, lot, harvest date)
- Sampling location and method
- Laboratory test report and chain of custody
- Product distribution and purchase records

If your customer does not provide you with additional information in a timely manner, contact the entity that collected the sample to request the full data package associated with the sampling event. As a first step, contact the inspector or agency representative listed in the report. If you are not able to reach the main contact, reach out to other agency contacts. For instance, agency contacts that assist with sampling event questions from the California Department of Public Health (CDPH) and the Michigan Department of Agriculture & Rural Development (MDARD) are listed below:

CDPH contact: Christian Bond (Christian.Bond@cdph.ca.gov)

MDARD contact: Food Emergency Response Team MDARD-MI-FSPR@michigan.gov

In addition, in some cases, when a business is not based within the state where the sampling event took place, the state department of public health (if available) or state department of agriculture (if a state department of public health is not available within your state) may facilitate prompt access to additional information. It is expected that state government entities have access to sampling information regarding fresh produce sampled or implicated in a positive finding. The goal is to obtain all necessary documentation as soon as possible to confirm what fresh produce was sampled and implicated. If your product is implicated, follow your company's recall program immediately.

4. Is a FOIA request required to obtain my own product sampling or testing information?

In certain cases, yes. A Freedom of Information Act (FOIA) request may be required to access sampling or laboratory records when testing is funded or performed under specific programs. This may occur when:

- Data are part of an ongoing investigation.
- Confidential business information is involved.
- Testing is federally funded under a cooperative agreement.

FOIA requests are typically processed promptly, but they can delay the recall process. The issue of FOIA-related delays is currently being discussed by industry stakeholders as it has needlessly slowed down the process. For instance, if a company needs to FOIA their product lab report, this delays the timely issuance of a recall and ignores the sense of urgency; information regarding the implicated firm should be readily shared with the firm without them needing to submit a FOIA request – however, in some situations, this continues to be the standard procedure.

5. What information do I need before deciding whether to initiate or proceed with a recall?

It is important to confirm that the implicated product is truly yours before acting. Recalls should be executed as soon as possible when there is evidence that a product is yours and poses a food safety risk.

Key steps before proceeding:

1. Obtain the complete data package (test results, chain of custody, lot information, bill of lading).
2. Engage your recall team and legal counsel early.

6. What are key recommended best practices to ensure an effective recall program?

- Conduct mock recalls regularly to test readiness.
- Review recall insurance coverage and liability preparedness.
- Maintain an updated recall communication plan with regulator and buyer contacts.

7. How can I strengthen my recall preparedness and minimize future risks?

- Review your Recall and Crisis Management Plan at least annually.
- Train staff on recall decision-making and recordkeeping.
- Conduct traceability drills and mock recalls with your buyers and suppliers.
- Verify that your documentation (lot codes, bills of lading, invoices) aligns with FSMA section 204 traceability requirements.
- Periodically review your liability and insurance coverage and benefits.

Bottom Line

Nobody wants to face a recall situation. Prevention, preparation, strong traceability, and rapid communication are the best safeguards. When a positive test or sampling issue arises, **don't wait**—gather the facts, confirm the information and data, and act decisively with verified information and clear procedures.

Disclaimer

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Source Materials & Supporting Resources

- Western Growers Recall Manual
- Western Growers Resources for the FSMA Food Traceability Rule
- FDA Guidance For Industry: Product Recalls, Including Removals and Corrections (revised 2022)
- IFPA Recall and Crisis Management: Food Safety 101
- FDA Industry Guidance For Recalls
- FDA Guidance--Initiation of Voluntary Recalls Under 21 CFR Part 7, Subpart C
- FDA-OII Recall Coordinators
- Guidance for Industry and FDA Staff: Questions and Answers Regarding Mandatory Food Recalls
- Frequently Asked Questions: FSMA Food Traceability Rule | FDA
- How to Make a FOIA Request | FDA
- FDA Sampling to Protect the Food Supply
- AFDO Produce Program Contacts by State
- FDA Microbiological Surveillance Sampling

- FDA-State Produce Safety Implementation Cooperative Agreement Program (PAR-21-174) - Factsheet August 2024
- MDARD - Freedom of Information Act Process for Michigan Department of Agriculture & Rural Development