

Product Tampering

****Newsroom Advisory****



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Because product tampering and tampering hoaxes are crimes,
here is a guide for handling anonymous contacts from those
claiming responsibility

Food Marketing Institute (FMI) conducts programs in research, education, industry relations and public affairs on behalf of its 2,300 member companies — food retailers and wholesalers — in the United States and around the world. FMI's U.S. members operate approximately 26,000 retail food stores with a combined annual sales volume of \$340 billion — three-quarters of all food retail store sales in the United States. FMI's retail membership is composed of large multi-store chains, regional firms and independent supermarkets. Its international membership includes 200 companies from 60 countries.

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The Federal Anti-Tampering Act (FATA), Title 18, United States Code, Section 1365, makes it a crime to tamper with consumer products, and to commit certain other acts, such as falsely reporting that a consumer product has been tainted. These felonies are punishable by three years to life imprisonment and a fine of up to \$250,000.

FATA gives the U.S. Food and Drug Administration (FDA) the authority to investigate offenses involving products subject to FDA regulations. The FDA places a high priority on these investigations.

1. **Direct contact, such as written or telephone threats, may be evidence of a crime:**

- Ask specific questions outlined on a predetermined questionnaire.
- Verify caller's identity through city directory/phone book/operator and/or call-back.
- If possible, make audio tapes, or take careful notes of suspicious telephone calls, including voice characteristics or background sounds.
- Notify a pre-designated supervisor at your station.
- Limit physical contact with written threats by using gloves or placing the letter in an envelope. Sometimes paper can carry fingerprints.

2. **Notify:**

- Local FBI office (tel. _____), particularly if it is a life-threatening situation.
- Local FDA office (tel. _____) and FDA Headquarters 24-hour emergency number (Division of Emergency Operations) 301-443-1240. Local or state police (tel. _____).
- FDA office of criminal investigations area field office or headquarters investigative operations 24-hour number 301-294-4030, unless the FBI has instructed otherwise.
- The local retail outlet or its headquarters. They may be unaware of the problem.
- The manufacturer, to both provide information and check other similar reports.

3. **Determine whether the public needs to be warned:**

- Work with government and industry representatives to determine if a public warning is necessary.

4. **Don't Air Until You're Sure:**

- And when you do, clearly differentiate between a hoax and the real thing.
- Before you air, try to determine the validity of the threat from the authorities and the retailer.
- Remember, the need to inform the public of potential danger should be balanced with the probability of encouraging copycat crimes. The reporting of a hoax can be more damaging than the reporting of a product recall.
- When it's clearly a hoax, all agencies except law enforcement agencies back off — but the public doesn't understand that unless you make it clear.
- Remember, it is also a crime to perpetuate a hoax.

5. **Handling the Story:**

- Stress safety aspects of the story as well as possible hazards.
- If a product is withdrawn, make sure you know why and report

the reason as clearly as possible.

- Report complete product identification, including name; size of container; product code, lot and batch numbers; where and how to return product; safety measures; and other steps being taken to handle the crisis.

- If possible, tell and show how consumers can determine if tampering has occurred — for example, examining safety seal, discoloration, odors, etc.

- Anticipate public reaction to your reports. Refer callers to appropriate spokesperson.

6. **Report resolution of the situation as quickly as possible.**

7. **Make sure your information is accurate, accurate, accurate.**

PROBABLE HOAX EXAMPLES

Although in the food industry every tampering threat is treated as the real thing because public health and safety are the primary concerns, certain types of calls coming into a newsroom should be regarded as suspicious. Before a news organization decides to give coverage to a tampering call, the manufacturer and retailer involved should be contacted.

Example 1

Consumer calls and says Salty Dog Chili was bought at ABC Supermarket and there is glass in the product.

If the store or manufacturer has not been informed, this should be considered a "suspicious call." The news organization cannot resolve the consumer's complaint, so why has the consumer called the news station first?

Ask the caller if the problem has been reported to the store, and if not, why not — but only after you get a name and telephone number for verification. Tell the caller you are going to put police or federal agents in touch, and see what happens. Ask the caller if he/she has contacted any law enforcement agency, and if not, why not.

Example 2

Caller reports something that doesn't sound physically possible, such as, "I just sprayed cyanide on all the produce at XYZ Stores."

If something sounds impossible, it certainly should be considered suspicious. It wouldn't be difficult to taint a few items, but it's not realistic to believe large groups of products can be damaged in a store. Check with the retailer before doing anything.

FDA Definition of a Recall

Voluntary removal by a firm of a defective product from the market. Some recalls begin when a firm finds a problem; others are conducted at FDA's request. Recalls may involve the physical removal of products from the market or field correction of the problem where the product is located. (Editor's Note: The main point in FDA's recall definition is that the company has to undertake the recall — FDA or the company informs the media.)

Class I Recall

A health hazard situation where there is reasonable probability that the use of the product will cause serious, adverse health consequences or death.

Class II Recall

A potential health hazard situation where there is a remote probability of serious adverse health consequences from the use of the product.

Class III Recall

A situation where the use of the product is not likely to cause adverse health consequences.

Please call FMI's media relations team if you have any questions about the proper way to handle a product tampering, at 202--220-0657.