

Decoding Food Safety Liability Coverage

What is food safety liability?

Food safety liability is the risk of food borne illness-- essentially someone getting sick from the food you've produced. This is a risk that often lurks in producers' minds because even when doing everything possible to produce and sell safe foods, there's always the chance something can go wrong. Insurance is a key risk management strategy here to both cover damages resulting from a food safety incident and provide peace of mind in the meantime. However, food safety liability policies are typically clear as mud. In this article, you'll learn how food safety liability coverage generally works so you can move forward with clarity and realistic expectations.

Common Culprits

There are 4 common food safety issues that are typically addressed in common farm liability policy as well as product liability policies:

1. Communicable diseases
2. Bacterial contamination
3. Foreign object contamination
4. Food safety issue from a property loss risk

Let's take a look at how each of these is typically handled by insurance.

Communicable diseases

This is the big culprit most people think about when it comes to food safety. A "communicable disease" is when food communicates disease to the consumer through pathogens in the food itself. Salmonella, E. coli, and Listeria can all spread disease through food and these dangerous bacteria are sneaky as irrigation water, worker hygiene, harvesting and packing equipment, and wildlife visitors are all possible vectors, capable of transmitting pathogens.

So what does insurance have to say about communicable diseases? Unfortunately, it is usually excluded from coverage. A typical exclusion will specifically state that "bodily injury" or "property damage" arising out of the transmission of communicable disease by an "insured" (the producer) is excluded. These exclusions may be found lurking anywhere in the policy. Typically your policy will say within the body of the "agreement" what is covered, and then will list numerous types of incidents that are not covered. These are the exclusions and the communicable disease provision is usually hidden in there somewhere.

Bacterial Contamination

You may be thinking Hepatitis A is more of a communicable disease than Salmonella, which is a bacteria so Salmonella has got to be covered right? Not exactly. There's generally an additional bacterial and/or fungal contamination exclusion. With this exclusion, if the bodily injury occurred because of a bacterial contamination, there is no insurance coverage provided.

Foreign Object Contamination

Now for a bit of good news: foreign objects, such as loose screws, glass, stones and pebbles, that make their way into foods and cause bodily injury are generally covered in a common farm liability policy as well as product liability policies. Typical farm liability policies include coverage for the odd nail and other "foreign objects" in an apple, for example. In all of the policies Farm Commons has reviewed, injuries caused by foreign objects, or basically anything that is not food and that would be quite surprising to find in your food, is covered.

Food safety issues resulting from property-loss

This is a food safety incident resulting from a tornado, hurricane, and other acts of God. For example, a tornado picks up sewage and blows it into the barn or walk-in cooler. You're likely to have coverage for loss of inventory under a farm property policy. If a storm blows sewage into your production area and you lose your produce due to contamination you can recover some of that value without selling it (which would cause folks to get sick) through property insurance coverage. However, if contamination occurred and you didn't know about it and you sold the produce anyway,, there's a chance you might have coverage. So in this case, you might be covered from both a property and liability standpoint.

Moving Forward

The above are general trends from insurance policies Farm Commons' team of attorneys has reviewed. It's worth reiterating that every insurance policy is unique, and our top recommendation is that if this information has illuminated your deeper concerns about food safety liability, schedule a meeting with your insurance agent to seek clarification. Ask them:

Am I covered for food borne illnesses from:

- Communicable diseases?
- Bacterial contamination?
- Foreign object contamination?
- Food safety issue from a property loss risk?