

NOV. 2018 ROMAINE EVENT LESSONS LEARNED AND KEY TERMS IN PRODUCT RECALL INSURANCE POLICIES

The romaine events of 2018 weren't technically recalls, they were *events*. **The FDA's "warning" stopped short of a formal recall, however, there is legal opinion that it bears all of the marks of a recall.** With "Government Recall" typically being a defined trigger in a recall policy, verbiage is critical to the abilities of an insured, and their broker, to file a claim successfully. Both 2018 romaine events highlight the importance of insuring your product with experts in the industry.

- **Recall or Government Recall** – A potentially covered event when a recall has been initiated by a government agency.

What does a "Government Recall" look like in a policy?

EXAMPLE OF GOVERNMENT RECALL POLICY LANGUAGE:

- "the recall of **insured product(s)** which has been initiated either (a) voluntarily by the **Insured**; or (b) as a result of an order by a national, regional or local government food safety regulatory agency (regulatory bodies); and the regulatory bodies classify the recall as Class I or Class II; or
- the recall arises directly from a determination by the regulatory bodies that there is an unreasonable risk of serious injury or death to humans or animals caused by the use or consumption of the **insured product(s)** and the recall is classified as Class A or B, or Class I or II."

The November romaine events were so wide spread that the other critical definition we were asked to challenge was "Insured Product."

- **Insured Product** – Each carrier policy defines this differently. Where you fall in the food chain can alter how this definition affects a claim. In the romaine event of November 2018 only a grower level contamination was potentially found. This has shown an effect on a processor, shipper or retailer trying to file a claim.

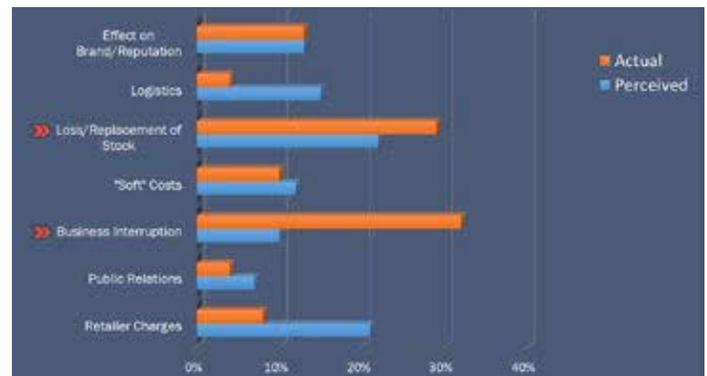
Another common definition used in recall policies is "Accidental Contamination"

- **Accidental Contamination** – Any unintentional contamination. A potentially covered event should contamination be found.

Understanding how your policy defines a recall or contamination event is just the first step, but knowing where the losses happen should an event occur could save your business time and money in the long run.

UNDERSTANDING RECALL LOSSES

There is a disparity between the perception and reality of where the major cost comes after a contamination event. The biggest loss to your business comes from business interruption, which is often overlooked when preparing for a contamination event.



Our experience with claims management from the **recent romaine events**, paired with our knowledge of the industry, has put us in a unique position to help you respond to events that could affect your business, and offer you better protection from unexpected business interruptions. We are committed to helping **United Fresh Produce Association members** establish a strong food safety program to help minimize exposures. For additional information on how we can help your business, please contact us at info@wgis.com or (800) 333-4942.

Disclaimer: This whitepaper is provided for informational purposes only and not for the purpose of providing legal advice. You should contact your attorney to obtain advice with respect to any particular issue or problem.



PRODUCT RECALL INSURANCE

In today's environment, a product recall can be a grower's worst nightmare. Despite diligent protocols, growers and distributors are at risk not only for their own products, but from the effects of a competitor's product recall.

A product recall could mean a major loss to your business; decreased sales as a result of lost product or consumer fears, loss of profits, and loss of credibility in the marketplace. Product Recall and Product Refusal coverage includes losses such as:

- Refusal of your product due to a recall of a competitor's product
- Claims and lawsuits for third-party economic losses (retailers, wholesalers, distributors)
- Crisis consultant costs
- Pre-recall expenses
- Recall related expenses
- Redistribution costs

No government issued recall orders are required to file a claim.

SAFETY NET FOR GROWERS AND DISTRIBUTORS

Product Recall insurance is one safety net you can rely on to protect your business against the risk of major expenses associated with a produce recall event. Don't wait until it's too late — we'll work with you to select the best policy for your needs so you can rest a little easier knowing your business is protected.

For a consultation, analysis and pricing for your business, please contact us.

CONTACT US FOR ALL YOUR INSURANCE NEEDS.

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