

## Property & Casualty

# Risk Strategies for CEOs and CFOs in the Food and Beverage Industry

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Buyers of insurance should be aware of numerous costly uninsured and underinsured risks within the details of many property and casualty insurance policies sold to the food and beverage industry. This article points out a few such risks and mentions strategies to reduce potential financial loss to help protect your balance sheet and maintain good working relationships with your customers.

### **Risk Transfer**

Large customers transfer risk to vendors through vendor supply agreements. It is important for vendors to review customer contracts with their legal counsel and also with their insurance broker. Vendor's insurance policies have restrictive language, sub-limits and exclusions that can result in inadequate or no coverage for the vendor or risks contractually assumed from their customer. Insurance policies bought by most vendors require extensive modification to provide the coverage the buyer thought they were getting. In some cases, vendors may not have the right type of policy to protect them against risks being accepted through vendor supply agreements. Here are actual examples we have seen and been invited to fix:

- (1) Vendor agreed to full indemnification of multiple retail customers by entering into several vendor supply agreements requiring full indemnification for product recall expenses. Upon review, we found this vendor's insurance policies provided only \$100,000 per occurrence and \$150,000 policy aggregate limit for contamination and they had no product recall coverage;
- (2) Vendor entered into a private label agreement with a large customer as part of a supply agreement in which vendor assumed full responsibility for labels. Customer was sued over content of labels and sent the lawsuit to the vendor to defend and pay. Vendor sent the lawsuit to their general liability insurer who denied the claim based on policy exclusions. This left the vendor defending both themselves and their customer without benefit of any insurance.

### **Private Labeling**

Vendors are frequently required to provide products for sale under the private label of their customers. This activity exposes vendors to a new, different and potentially disastrous type of liability exposure not typically covered by the advertising liability section of the vendor's general liability policy. General liability, advertising liability and printer's errors & omissions policies typically do not provide the broadest coverage available for this exposure. Special policies have been designed for the unique exposures associated with private labeling to protect both food vendors and their customers. This is a very important issue as evidenced by recent labeling lawsuits costing millions of dollars as new case law is being decided on these complex issues.

### **Contamination**

There are many causes of contamination including foreign objects, bacteria, refrigerants, product tampering and others. Incidents involving contamination are always serious and can be very expensive. Buyers of insurance should work closely with their insurance broker to look for and discuss exclusions, sub-limits and restrictive language found in property, equipment breakdown, transit, contamination, product recall and other

policies. Compare your exposure from contamination to raw materials, stock in process, in storage, in transit and in distribution to the available limits for each scenario. Integrate capabilities of different insurance policies where possible to provide broad coverage and increase the likelihood of collecting additional value following a covered loss. Here are few examples we identified (and fixed):

- (1) Property policy contained sub-limits of \$100,000 for spoilage and \$250,000 for contamination at scheduled locations with no coverage at unscheduled locations. Food vendor had \$8.7M of perishable food stored in an unscheduled location and would not have had any coverage in event of a loss. Vendor now has contamination and also spoilage coverage to the full value of their stock wherever located;
- (2) Equipment breakdown policy had a sub-limit of \$500,000 for contamination resulting from refrigerants. Vendor lost \$1.5M of frozen stock resulting from an ammonia leak and was uninsured for \$1M of the loss;
- (3) Another food manufacturer's package policy contained a sub-limit of \$100,000 for contamination and came with a provision that the coverage only applied after the stock entered distribution, thus excluding first party exposure. This weakness was fixed by changing insurers.

### **Spoilage**

Watch out for policies seeking to limit an insurer's exposure to spoilage losses of your raw materials, work in process and finished goods. Such restrictions often take the form of sub-limits, distance limitations from offsite utilities, inadequate coverage for transit of perishable goods and more. Here are a few examples of deficiencies we found:

- (1) Insurance policies for a manufacturer of \$150M of perishable foods would only cover offsite utility interruption losses if the utility was located within one mile of the insured location. Nearest electrical sub-station was three miles distant thereby voiding coverage related to loss of power;
- (2) Vendor of beef and poultry products had spoilage sub-limit of \$100,000 but have an average stock of \$4M;
- (3) Vendor of perishable food transports an average value of \$70,000 per reefer truck but their former policy limited spoilage in transit to \$10,000.

Many food and beverage vendors can design significant improvements into their insurance programs within existing budgets. CEO's, CFO's and Risk Managers should work with their insurance broker to carefully review risk transfer requirements found in vendor supply agreements and analyze insurance policies to complement business operations. In most instances, costly gaps can be filled prior to incurring a loss.

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