

## Coverage Comparison of Insurance Covering Contamination & Recalls

	Commercial General Liability	Commercial Property	Contamination/Recall
What triggers the policy	An “occurrence” that causes bodily injury or property damage during the policy period	“Loss” during the policy period	Accidental contamination or malicious tampering that has resulted or would result in bodily injury or property damage
What is covered?	Liability for bodily injury and damages to third party property;  Costs of defense against third party suits	Damage to your property;  Related business interruption losses	Costs incurred to recall your products
Examples of coverage...	Costs to replace customer products damaged or rendered useless by your ingredients  Hospital bills of consumers sickened by your product  Attorney fees spent to defend lawsuits	Your stock damaged by a contractor's negligence  Lost income during shutdown of operations while repairing damaged equipment	Costs to transport, store, dispose of recalled product  Overtime and temporary staff expense  Lost Profits  Brand Rehabilitation  Crisis Management
What are your concerns?	Damages must be caused by an “occurrence”  Products liability coverage may have lower limit than policy as a whole	Damage must be physical and caused by a “covered cause of loss”  Business interruption must be connected to such property damage	Insurance may require more to trigger coverage than FDA requires to trigger recall (watch your trigger)  Legal posture of insurer  GMO exclusions  Market loss impacting your product(s)
Coverage for “your product”	Excluded	Covered	Covered
Coverage for “your work”	Excluded (e.g., if you provide a service, like bottling, rather than a product, like soda)	N/A	N/A
Coverage for “impaired property”	Excluded if the damage can be undone by replacing your product	N/A	N/A

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Coverage for contamination	<p>Excluded if caused by a “pollutant”</p> <p>Watch out for other manuscript exclusions (e.g., organic pathogen, GMO, nutraceutical, etc.)</p>	<p>Typically excluded if caused by a “pollutant” except if contamination was the result of a covered peril</p>	<p>Included</p> <p>Engage insurer(s) assuring comprehensive understanding of coverage trigger, definitions and overall scope of intended coverage</p>
Coverage for replacing, storing, shipping and/or disposing of recalled products	<p>Excluded, unless recall is of third party’s property from which your product cannot be unincorporated</p>	<p>Replacement cost of covered property</p> <p>Excluded if government seized/destruction (not excluded if voluntarily recalled)</p>	<p>Covered</p> <p>Type and amount depends what costs are listed and excluded</p>
Contractual Risk Transfer	<p>You need to understand any risk(s) you are assuming through written contract.</p> <p>Additional insured endorsements &amp; indemnification clauses in both directions</p>	N/A	N/A