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Product Recall Insurance – Why consider purchasing coverage now?

From spinach to peanuts, pet food to chives, the early 21st century has seen its share of product recalls; in 2007 there were **472 consumer product recalls**. A spokesperson for the U.S. Consumer Product Safety Commission says the figures are continuing to rise.

The effect of a product recall can be catastrophic as illustrated by the 2009 peanut recall. On March 23, 2009 the United States Food and Drug Administration (FDA) requested that nut distributor Westco Fruit and Nut Co. voluntarily recall all products containing peanuts from Peanut Corporation of America (PCA) due to a suspected *Salmonella* contamination. When Westco refused, the FDA gained access to the company's records with an inspection warrant. The FDA discovered sufficient evidence to issue a Class 1 recall of product distributed from PCA's Plainview, Texas facility. The facility handled raw peanuts and prepared them to be shipped elsewhere as well as converting the peanuts into various basic peanut products (such as peanut butter) to be used at other locations. As a result, contaminated peanuts were shipped from this Texas plant to other locations all over the world to be used in a number of products. ***What resulted from this mass distribution of contaminated product were 714 confirmed infections, nine deaths and \$1 billion in losses to the United States peanut industry.*** The Peanut Corporation of America filed for Chapter 7 bankruptcy and its owner and CEO appeared before Congress under Congressional subpoena.

With the rising occurrence and severity of consumer product recalls and the increased jurisdiction of the FDA with The Food Safety Enhancement Act of 2009, it's essential that producers protect themselves against product recalls. In the past, the FDA has had the authority to ***request*** a product recall and to inspect producing facilities upon obtaining an inspection warrant. With the proposed Food and Safety Enhancement Act of 2009 (which has been voted through the United States House of Representatives and is

currently on the docket within the United States Senate), the FDA will be able to **mandate** product recalls and conduct regular investigation of production facilities.

We are in an era of increasing regulation and heightened consumer awareness. The internet has created instant access to information for the average consumer and websites such as www.recall.gov have been established to alert consumers to current product recalls. In addition, the Center for Disease Control has greater abilities today than ever before to trace food borne illness outbreaks to their originating source. **Many retailers and wholesalers are contractually requiring growers and suppliers to take full responsibility for all costs associated with a product recall.** With exposures to product recall losses increasing from seemingly every angle, it is time for food growers, packagers, processors and distributors to get serious about purchasing insurance coverage for Product Recall.

Most insureds don't think twice about purchasing general liability and products liability coverage to protect their assets. Should someone get injured or become ill from a food product, insureds want to make sure their product liability insurance is there to respond and protect them. Unfortunately, **the costs associated with a product recall are not covered under the general liability and product liability policies insureds commonly purchase.** It is interesting to note that a 2006 Washington State University study estimated the average cost of a product recall at \$540,000 which is more than double that of an average product litigation settlement (\$217,000).

When looking at purchasing product recall coverage, a potential insured needs to decide what types of exposures they want to cover. A basic policy covers the expenses associated with recalling the product. These expenses typically include things such as the cost of radio, TV and print announcements, expense to remove and transport the products, disposal of the products, cost to perform chemical analysis on the products and other such expenses. Insureds can also purchase coverage for loss of gross profits and expenses incurred in "rehabilitating" their brand. Coverage is available to pay the insured's expenses and in most cases, it is also available to pay for a customer's cost to

recall and customer's loss of gross profit (this is referred to as third party coverage). Included in most all of these recall policies are consulting services that can help producers protect themselves against product recalls and possible sanctions by the FDA. *Many insurance carriers provide "pre loss consulting" services and they help prepare insureds to create a good recall plan in advance of an unexpected event.* In addition, the consultants aid in helping an insured respond to the public and through the media when a recall does occur.

Today there are eight or more insurance carriers that are able to offer product recall coverage, so availability and affordability of product recall insurance has increased. Simply put, many more coverage and carrier options are available today than ever before for insureds.

It is important to understand the unpredictability of product contamination and recall. By learning from what has happened to those companies who have found themselves uninsured in a product recall, producers can take steps to manage their risk. With the possibility of financial ruin and the damage to brand integrity, product recall insurance is a pretty simple and affordable solution.

Lori Hunter/Worldwide Facilities

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BIO Information on Lori Hunter

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Lori has been in the surplus lines/brokerage industry for over 25 years and with WWFI since 2000. She specializes in placing casualty and unique surplus lines business. In

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