

Insurance Requirements and Considerations for Food Processors



The information provided in this document is for general information only. Please contact your insurance provider to determine the policies that are best for you and your food business.

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Introduction

Vital to any food processing business, commercial insurance helps protect businesses from unexpected losses that can affect the livelihood of companies, and interruptions that prevent proper operation.

In choosing a commercial insurance program that accurately fits your business, there are many things to consider. For example, how much of a risk are the products you carry? Are you selling within the province, or are your sales from across Canada, into the U.S., or beyond? To what extent are you depending on supply chains? How can employees become a risk? Do you have a storefront open to the public?

The reality is that every business is different, and each company will require different coverages, limit sizes, and deductibles. A qualified commercial insurance broker can help to analyze the risks inherent in your business and tailor a program to fit your unique needs. Following is a standard list of coverages worth considering and discussing with an insurance broker:

Insurance Coverages

Mandatory Coverages

Commercial General Liability (Mandatory)

All food processing and manufacturing businesses should carry at least **Commercial General Liability** as part of their insurance program. This limit can provide coverage if your business is found legally liable for third-party property damage or bodily injury as a result of business negligence. Examples include common slip and falls, damage to vendor/customer equipment, and others. Most general liability policies are also packaged with a variety of coverage extensions and endorsements, such as Personal and Advertising Liability, Pollution Liability and Non-Owned Automobile Liability. These can help cover other types of damage to third parties that might result from business operations. There are a number of things that Commercial General Liability cannot cover, so it is best practice to consult with your broker to review exclusions for your particular policy.

Products-Completed Operations Liability

Similar to Commercial General Liability, this liability limit extends coverage for bodily injury or property damage to a third-party arising from your products. This is the most important coverage for food processors and manufacturers, and the most commonly used limit in this sector. Where Commercial General Liability will not apply to injuries caused by products sold, Products-Completed Operations will.

This would be useful should a customer, for example, have a harmful reaction to your food product, and choose to sue your company for damages.

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Both Commercial General Liability and Products-Completed Operations can help cover attorney fees, court costs, administrative costs, settlements and judgements resulting from a claim.

Commercial Property Insurance (Mandatory)

Property comes in many forms, including stock, equipment, buildings, tenant's improvements, raw materials, and others. These can each be covered from physical loss or damage under a Commercial Property policy from perils such as fire, windstorm, hail, theft, vandalism, and others. These limits are tailored to the replacement cost of the property in your possession. It is best to discuss with your broker when creating a package policy to ensure that the correct amount of property insurance is purchased

Part of the Property section, **Business Interruption (BI)**, is a coverage that provides relief when operations are interrupted due to an insured peril. It can provide coverage for the income lost when your normal business operations are interrupted, or stopped altogether. This interruption or damage must be caused by, or be a direct result of, a covered cause of loss, which are the same causes of loss found in your Commercial Property policy. There must be physical damage to your business property for it to apply. Causes of disruption can include natural disasters or damage to building elements (e.g., burst pipes, water leaks, fires, smoke, vandalism), depending on the covered perils under your property policy.

There are different wordings for BI, with some covering additional business costs incurred, such as utility payments and property taxes. Actual Loss Sustained wording, for example, can also cover the loss of income during repairs and losses during the ramp-up period back to normal operations after reopening.

BI coverage varies and doesn't always cover everything that you expect, so it's best to consult your broker to make sure your BI insurance covers the appropriate exposures to your business.

Contingent Business Interruption Insurance

This is an extension to other insurance coverage that will cover business interruption and the financial impact of events outside of the food company's control. Contingent Business Interruption insurance may come into effect if there are supply chain issues, manufacturer supplier issues, transportation failures and losses at locations other than your own that affect your business. The loss at the third-party location needs to be from a cause of loss that would otherwise be covered under your business's insurance policy. For example, a fire burns down the factory of one of your key suppliers.

Equipment Breakdown Insurance

As a food processor or manufacturer, you depend on functioning equipment to keep your operations running smoothly. The term "equipment breakdown" was given to cover the exclusions in the standard commercial property policy. Equipment breakdown insurance provides coverage for equipment that has suffered internal damage, including mechanical and electrical failures. It can also cover inspection and diagnostic fees, as well as labour and materials for repairing your equipment. Without the proper coverage for these breakdowns, you could face delivery delays, as well as added costs to continue your operations.

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Owned Automobile (Mandatory if business owns vehicles)

Owned automobile coverage is mandatory if your business uses company-owned vehicles. Personal auto insurance policies typically exclude, or limit, coverage for vehicles that are used for commercial or business purposes, such as company-owned vehicles. This means that if an accident occurs while a company-owned vehicle is being operated for business purposes, the personal auto insurance policy of the driver would not provide coverage, leaving the company liable for any damages or injuries that result.

Overall, having an owned automobile policy is essential for protecting a food processing company's financial stability and covering any potential liabilities in the event of an accident involving a company-owned vehicle. In Manitoba, this coverage is purchased from Manitoba Public Insurance (MPI). Pricing will depend on a variety of factors, including vehicle type and value, operating radius, driver history, and claims history.

Workers Compensation

Workers Compensation coverage is an employer-paid injury and disability insurance system for workers and employers, that is mandatory for most Manitoba employers. Workers compensation insurance provides benefits to employees who get sick or injured on the job. It can also cover disability benefits, missed wage replacement and death benefits. Workers compensation insurance must be purchased through the Workers Compensation Board of Manitoba (WCB) and is not available through private brokers.

Recommended Coverages

Errors and Omissions Insurance

Errors and Omissions (E&O) also commonly referred to as Professional Liability insurance, is recommended if your business provides any type of service, consulting or advice that impacts another party's decisions. You can be sued even if no one is physically injured as a result of the faulty advice, even if the error was unintentional.

For example, if you produce a food item for a client, and it doesn't meet the expectations specified in your contract, they may sue you for failing to meet their deadline or for failing to meet the requirements of a working product. This would be a situation in which the client is trying to collect financial damages caused as a result of your failure to perform your duties as a vendor. In these cases, Manufacturer's Errors & Omissions insurance could cover legal costs and damages.

It is important to remember that E&O is only designed to cover purely financial loss for third parties caused by the policy holder. It will not respond to third party bodily injury or property damage, as those losses are better insured under General Liability and its related coverages.

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Cyber Security Insurance

Canadian-based food processing companies should carry cyber insurance for their businesses because cyber threats, now becoming increasingly prevalent, can have a significant impact on a company's operations and reputation. Food processing companies handle sensitive information, such as personal information of employees and customers, trade secrets, and financial data that can be at risk of cyber-attacks.

For example, a cyber-attack on a food processing company's computer system could lead to the loss or theft of sensitive information, resulting in financial losses, legal liabilities, and reputational damage. A cyber-attack can also disrupt the company's operations, causing loss of revenue, and in some cases, compromising food safety and integrity.

With the increasing trend of e-commerce and online food delivery services, food processing companies are collecting and storing more personal information online than ever before, which further increases their risk of data breaches. Cyber insurance can provide coverage for the costs of responding to a data breach, including notification and credit monitoring services for affected individuals, as well as legal and public relations expenses.

Directors and Officers Insurance (Recommended)

Directors and officers carry the responsibility of overseeing the management of their organizations and are also responsible for their actions while representing their companies. Food processing companies are subject to various regulations and laws, so it is not uncommon for directors and officers to face legal action in their professional capacity. Business leaders can also be held responsible for stock underperformance, employment malpractices (e.g., wrongful dismissal, sexual harassment), and failing to comply with laws and regulations. Whether your company is public, private, or non-profit, Directors and Officers (D&O) insurance is recommended to provide the protection you need when you are subject to claims made by competitors, employers, customers, suppliers, or stakeholders.

Cargo Insurance (Recommended)

Cargo Insurance protects your products and supplies while they are being shipped from, or to, you. Many common carriers and trucking companies sub-limit how much they are willing to cover for you, usually to \$2/lb. or less. Otherwise, if you would like higher coverage from the shipping companies, they often charge a steep fee for the extra insurance. You can get peace of mind and avoid these charges by carrying your own Cargo Insurance coverage on your policy.

This insurance is available on an individual shipment basis, or as an annual policy. Either option includes a per-shipment limit of loss, as well as territory restrictions. Based on your business exposure, your insurance broker can help find the cargo solution that is right for you.

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Mobile Equipment (Mandatory, if applicable)

If you have equipment that can leave your place of business, such as mobile packaging equipment, forklifts, skid steers (Bobcats), truck-mounted equipment or mobile tools, it is important to ensure these are covered under a Contractor's Equipment Floater, Misc. Property Floater or other similar insurance wording. Standard Property insurance limits coverage to the locations named on the policy, so when your property is leaving your location, it is key to ensure that the insurance coverage follows.

To ensure accurate quotes, a schedule of mobile equipment should be created. This will give your broker and insurer the accurate information they need to correctly quote the risk. Small miscellaneous property (e.g., hand tools) can be lumped into a "Misc. Tools" line item, but anything with a value of more than \$1,000 should be named individually on the schedule.

Specific Considerations for Common Food Business Types

Co-Packing:

Manufacturers: If a manufacturer is using a co-packer for its products, the insurance program looks broadly the same. If the volumes are large enough, it might be worthwhile to consider adding a Transit & Cargo policy to cover stock on the move. For smaller manufacturers, this is less of an issue as property in transit is typically covered to some extent by most insurers through insurance package extensions and endorsements. It's also important that the manufacturer be named as an additional insured under the co-packer's liability policy. This can be completed with a certificate of insurance issued by the co-packer's broker. This helps extend liability coverage to the manufacturer, should it be named in a negligence suit that was caused by the co-packer.

Co-Packers: If the insured *is* the co-packer, they will need a couple of additional limits to cover some exposures not covered under the standard insurance package. The big one being Property of Others, which can provide property coverage for goods you don't own (e.g., goods you are packing on behalf of your clients). If the co-packer contaminates, or packs, a product incorrectly and causes injury to a third party, they would benefit from having a Products Completed Operations Liability limit in place to provide coverage for lawsuits filed against the co-packer.

Community Commercial Kitchen:

Community commercial kitchens pose similar risks to other food processors. The biggest consideration is that the kitchen owner or operator will likely request specific limits of insurance from the user, and be named as an additional insured on the user's policy. This can be completed via a certificate of insurance issued by

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the broker of the user's policy, assuming that the correct liability limits are in place. This is essentially the same structure as a landlord/tenant lease. Tenant's Legal Liability (a standard extension of 99 per cent of Commercial General Liability policies) is important here as well, should the user damage the property owned by the kitchen through their use of the space.

Food Demos

Food demos are a great way for companies to promote their products and attract new customers, but they also come with their own risks. For example, if a product is contaminated, or causes an allergic reaction, the company may be held liable for any resulting injuries or illnesses. Your insurance package will help cover the costs of legal fees, settlements, and other expenses that may arise from such incidents. It also provides peace of mind for the company and its employees as it can help protect their financial well-being and reputation.

Online and International Sales

If your company is selling online (especially internationally), underwriting can be more difficult. The insurers will have additional questions regarding how products are transported or about revenue splits between countries. Most importantly, claims are more expensive to handle internationally due to increased legal costs when operating across borders. The increased litigiousness of the U.S. also factors into claims costs. The result of both is typically reflected in the increase in premiums.

Conclusion

Insurance is a cost that is essential to managing risk, and helps to provide a solution to risk that cannot be avoided, or that would be too expensive to cover internally. It would be very challenging for many food processing businesses to have to pay out-of-pocket for any unexpected losses without commercial insurance coverage.

Every business will have slightly different requirements depending on its operations, but a good broker can help analyze the risk and recommend a comprehensive insurance program.

Insurance for Food Processing Businesses was prepared in consultation with Fuse Insurance Ltd.
(<https://fuseinsurance.ca/>)