Producer Liability: Understanding & Communicating Vendors’ Risks & Insurance Needs
What makes farmers markets unique?
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  www.mifma.org
Protecting Producers at Market

• Producers are exposed to a number of risks by agreeing to be vendors at a farmers market.

• Protecting yourself from these risks involves:
  ➢ Identifying the risks involved with farmers markets.
  ➢ Limiting risk exposure.
  ➢ Understanding your insurance needs, and how to purchase a policy that provides adequate coverage.
Two Types of Producer Liability

• Producers are exposed to two types of risk when selling at a farmers market

  ➢ Producer General Liability
  ➢ Product Liability
Producer General Liability

- Producer General Liability
  - These are the risks that are an inherent part of being a vendor at a market.
  - These risks include:
    - Trip and fall
    - Unsecured tent injuring an individual
    - Most accidents in and around the farmers market
Product Liability

- Product Liability
  - Associated with the risk involved with selling products, especially food, at market.
    - Most common example is food poisoning.
Presenters

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Risk Exposure at Market

• How is a market exposed to risk through its producers’ activities?
Additional Insured

- An “Additional Insured” is a person or organization that enjoys the benefits of being insured under an insurance policy purchased by another entity.
- Requiring a party to have its own insurance and naming the Farmers Market as an additional insured can help ensure that a party agreeing to “indemnify” you (hold you harmless) will actually have the financial resources to live up to these obligations.
- Example: A farmers market is named an additional insured on a vendor’s liability policy
Who Should Producers Include as Additional Insured?

- The market(s) where they sell.
Adding an Additional Insured

- Speak with your insurance provider to determine how to best add additional insured to your policy.
- Typically, there is a fee associated with each additional insured.
Food Safety Training and Insurance

• Food safety training demonstrates that you have assumed the duty of responsibility for your product.
• Food safety training might lower your insurance premium, but there is no guarantee.
Food Safety as Risk Mitigation

- Regardless of how food safety training affects your premium, it is still an excellent investment.
- Food safety training may reduce your exposure to risk by providing you with the education to produce safe food products.
- Note, that even though risk exposure might be reduced, it is still not eliminated.
Markets face the question of whether or not to require proof of insurance from their producers.

Should you, as a market manager or market sponsoring entity, require that your producers be covered?

It’s recommended that you **do** require insurance for the benefit of both the market, and the producer.
Requiring Product and General Liability to Protect the Market

- As a market manager, it is critical that you encourage your producers to have insurance.
- If a claim is filed against a producer it is likely that the claim will also involve the market, and possibly the market manager.
- If the producer does not have insurance, the market and market manager will carry the financial responsibility resolving the claim.
Requiring Product & General Liability to Protect the Producer

- Market Managers should also encourage producers to have insurance for the benefit of the producer.
- In the event of a claim, a producer could be responsible for legal fees, and reparations to the claimant.
- Without an insurance plan, legal fees and reparations could dramatically hurt the financial standing of the producer and his or her business.
Presenter

Deb Connors

- Market Master at the Historic City Market in Kansas City, Missouri

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Enforcing Proof of Coverage

- Market managers can require that producers have coverage, but how do you verify that your producers actually are covered?
- Ask for a copy of the insurance policy to be sent to you, or the organization that manages the market.
- Without proof of insurance, the market manager and producer put themselves at risk.
Enforcing Proof of Coverage

• Make sure all market entities are listed as additional insured on each vendors policy.
• Vendors who do not provide proof of coverage will not be eligible to sell at the market.
Train the Trainer

• Market managers often become the de facto insurance advisor.
• A market manager who understands the importance of having insurance, is more likely to create a market that is adequately covered.
• Market managers should familiarize themselves with different types of insurance policies to help point their vendors in the right direction.
• At the end of the day it is the vendors responsibility to do the research and pick the policy which best suits his/her business.
Health Regulations

- A common risk exposure at markets is violating health regulations.
- Even if the food does not harm the consumer, that food is still required to meet the specifications of state health regulations.
- Failure to meet these regulations can result in a claim.
- One food born outbreak could destroy your business or a market.
Health Regulations, Healthy Relationships

- Forming partnerships with the boards of health in your state/county can help avoid an adversarial relationship.
- Know your board of health, know the regulations that they set, and work with them to help enforce these regulations.
A healthy relationship goes a long way to prevent insurance claims.

Working with your local health department to educate vendors on the importance of following local guidelines and to understand it is an important part of doing business.
Compliance with Guidelines: Insurance

- Policies have their own guidelines.
- These guidelines indicate the particular situations in which the policy provides coverage to the producer.
- If the producer does not comply with the guidelines, then the policy is void, and will not protect the producer in the event of a claim.
- This is why it is important for the vendor to do their homework and make sure the policy is meeting all their needs.
Compliance with Guidelines: Market

- The market is free to establish its own guidelines.
- Each market has a set of rules to enforce these guidelines.
- If the vendor does not meet those guidelines, then he or she may be deemed ineligible to sell at market.
Making Guidelines Work

- It is wise to have market guidelines that coincide with the insurance guidelines and health department guidelines.
- Remember, if a producer violates the insurance guidelines thereby voiding the policy’s coverage, the producer is exposing the market and the manager to greater risk.
- When market guidelines and insurance guidelines are similar, market managers may remove problematic producers.
- Removing these producers lessens the exposure to risk for both the market and the manager.
Q&A

Additional Resources
Introduction to Insurance Tip Sheet
http://farmersmarketcoalition.org/resources/index2.php?option=com_resource&task=show_file&id=6214

Farmers Market Manager FAQs on Insurance:
www.farmersmarketcoalition.org/managerfaq

Nonprofit Risk Management Center
http://www.nonprofitrisk.org/

Required Vendor Information Form
http://farmersmarketcoalition.org/resources/index2.php?option=com_resource&task=show_file&id=6260

Proof of General Liability Coverage
http://farmersmarketcoalition.org/resources/index2.php?option=com_resource&task=show_file&id=6248
Upcoming Webinars

• Making the Most of Your Market Insurance Policy & Minimizing Liability Risk (March 8, 1 pm ET)
• Protecting Board Members & Learning the Nitty Gritty of Statewide Insurance Programs (April 5, 1 pm ET)

Members will receive registration information as each webinar opens up in the coming weeks.

All webinars will be available on in the FMC Resource Library.
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