



FARMERS MARKET COALITION

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Health and safety is on all of our minds even more during these times. Liability insurance is something that each vendor is required to carry and markets organizations should carry to reduce their risk. Although farmers market operators do all that they can to make sure that the market is safe for community members, vendors, and staff, insurance can help mitigate stress and cover things that are out of market operator control.

Navigating the waters of liability and risk for a farmers market can be tricky. While liability insurance is a proven method to manage risk, between managing your business and your hectic schedule, finding the time to understand it is difficult. Fortunately, that's where a licensed insurance agent can help.

In May, FMC [hosted a webinar](#) with Farm Commons, the Center for Agriculture and Food Systems, and the Food Insurance Liability Insurance program that addressed the legal risks that market operators take on and how they can create programs with strength beyond COVID-19. Due to significant interest, we are revisiting the questions asked and answering some common questions about liability insurance with Chris Van Leeuwen, Vice President of Agency Development at the [Food Liability Insurance Program \(FLIP\)](#). Read along to learn about farmers market risks and how to manage them.

Q: Will insurance cover a food-borne illness or contamination?

A: Yes, it could. But each policy can vary, and you will need to refer to your specific policy details to ensure that food-borne illness isn't listed as an exclusion. An exclusion is a provision in the policy that may not be covered. Policies can exclude specific exposures or business operations.

Q: Can you ask your agent about these exclusions?

A: Yes, you absolutely can. Your agent should be able to advise you on the coverages your policy offers. You may also refer to your policy "forms list" typically located just a few pages within the document. This forms list will outline the listed exclusions, within your policy. Regardless of a food-borne illness exclusion or not, it's important to review all the exclusions and endorsements for your policy.

Q: If your farmers market is starting to aggregate orders, do you need to do anything regarding coverage?

A: When you start communication with your agent, they base the rate and policy from the exposures that you have at that time of inception. If you have changes in your operation, it's always a good idea to communicate with your agent regarding those. This will help prevent red flags if there is a claim. With more people in the distribution chain, you will want to be careful of not taking on all that liability. As a farmers market, it's important to have indemnification agreements and additional insured status with everyone who is providing you the goods. That way if something does happen, you will be able to better protect yourself and pass the liability on to the person who originated the product.

Q: If you expand operations, could your agent tell you that your policy cannot be extended?

A: Yes, this is a possibility. One of the best things you can do is have a conversation with your agent before you make operation changes. Also, having a confirmation of the conversation in writing is useful.

Q: Is coverage for COVID-19 available in the case that it becomes a liability?

A: Some policies might have virus exclusions or communicable disease exclusions. Without those, there is a possibility that you could get some COVID-19 coverage because it is a bodily injury to somebody. However, the liability would still have to be traced back to you. It's important to review your policy because most carriers had those exclusions before the COVID-19 pandemic started.

Q: How does a vendor protect themselves from poor management of the farmers market if that market is where the contamination occurs?

A: Typically, a farmers market will be listed as an additional insured on the farmer's policy. However, the farmer is not going to be listed as an additional insured on the farmers market's policy. What could happen in this situation is that the farmer and the farmers market would both be sued, and the insurance company for the farmer would work to prove there was no negligence from the farmer. If negligence lays with the farmers market, then they will be the ones that pay.

Q: What if as a farmers market you are already listed as an additional insured on your vendors' policies, do you need to look for specific language if you are now aggregating with them?

A: There are a lot of additional insured endorsements. To help isolate yourself, even more, you can have your indemnification documents reviewed by an attorney. There are other endorsements called a waiver of subrogation and primary and noncontributory wording that gives additional coverage outside of the additional insured endorsement that can help move some of that exposure away. It is always best to have an attorney review these.

Q: What type of exposure will we have if we aggregate vendors' pre-order systems and establish a preorder system for vendors that don't have their own system, all through our own website? We will be aggregating the orders, but not the produce itself.

A: For something like this, it is important to look into technology and cyber coverage even if you already have general liability coverage.

Q: If farmers markets are doing pre-order boxes that are being put together onsite at the market, does that market need specific product liability?

A: Yes, you do need specific product liability. Product is referred to as any good or product manufactured, sold, handled, or disposed of by the insured. If the farmers market is manufacturing, handling, or selling that all falls under product liability. If you, as the market, are packaging or relabeling, that now becomes the market's product, so you need to make sure you have product liability.

Q: How do you start the process of getting insurance?

A: Relationships are very important. You need to find someone (an agent) that you can trust and have these open conversations with about your business. And regardless of how long you have been in the industry, it's important to communicate what the operations of the business are, both what you are planning on doing and what you are currently doing. Your agent can then start looking at the exposures you might have and building a policy around that.

Q: Is it possible that the online platform handling transactions would have that cyber/data insurance coverage?

A: Probably not. Typically, when you sign your contract, you are saying you are going to hold them harmless for anything, so that would fall back on you. Double-check, but more than likely they will not cover that.

Obtaining the correct insurance and understanding your business exposures can be time-consuming. However, by taking a few steps you can reduce your potential risk. Start by talking to an insurance agent about your farmers market and the specific activities related to it. Have an honest conversation about where your business is and where you would like it to be. From there, work with them to create a policy with your specific exposures in mind.

Even with insurance, you could still have risks. It is important for your vendors to have insurance and for them to list your farmers market as an additional insured. Being listed as an additional insured will help protect you if a claim is filed against a vendor and it lists you as well for a vendor-related incident. From there take the proper precautions to not increase your exposures.

We understand that farmers market insurance can be complex. If you would like to learn more, [reach out to our partners at FLIP.](#)

