

# Product Recall Insurance



**Westchester**<sup>®</sup>  
A Chubb Company



The advent of “product recall” now being included in the everyday lexicon of the business world has raised the awareness of the need for businesses to address the financial, moral, and crisis response requirements associated with product recall as a critical element of their corporate risk management philosophy.

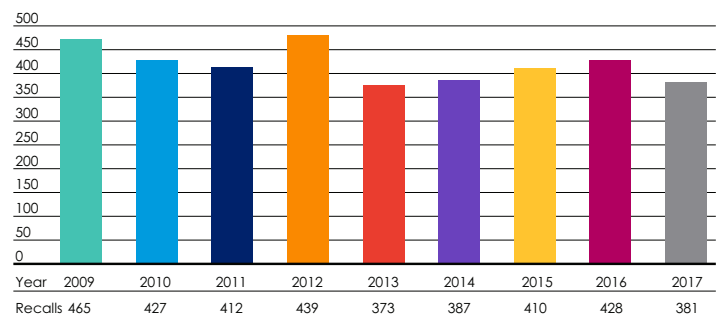
# Product Recall – The Growing Risk

Today, more than ever, recalls affect nearly every industry, consumer, and market segment. Business owners are faced not only with the financial impact that a recall may generate, but also the challenge to preserve the good name and reputation of their company during and after a recall event.

These ever-increasing recall trends are highlighted in recent historical data of four major U.S. regulatory agencies, in which:

- From 2012–2018, the **USDA** (United States Department of Agriculture) initiated over 779 recall events involving more than 155,926,121 million pounds of product being recalled.
- Since 2009, the **CPSC** (Consumer Product Safety Commission) has overseen an average of 414 cooperative recalls per year of products that either violated mandatory standards or were defective and posed a substantial risk of injury to the public.

## CPSC Recalls 2009 – 2017

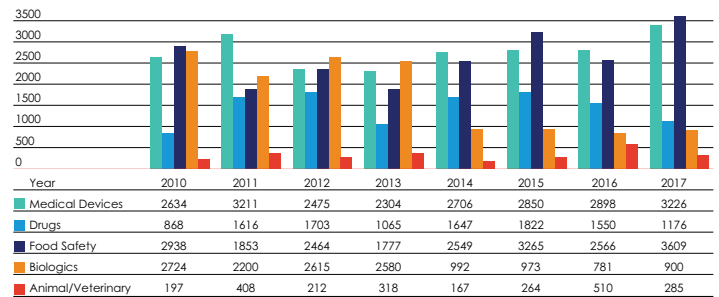


Source: US Consumer Product Safety Commission <https://www.cpsc.gov/>

- A review of data spanning 2010–2017 notes that the **FDA** (Food and Drug Administration) has issued more than 70,000 separate product recalls involving medical devices, drugs, food products, biologics, and CVM.

### FDA Recalls

Number of Products Recalled

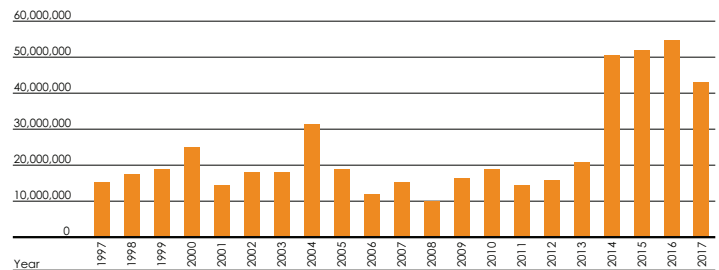


Source: <https://www.fda.gov/downloads/oc/oci/enforcementactions/ucm540606.pdf>

- **NHTSA** (National Highway Transportation Safety Administration) has issued 13,966 recalls from 1997–2017 impacting 685,456,459 motor vehicles.

### NHTSA Recall Summary 1997 – 2017

Quantity of Vehicles Recalled



Source: <https://www.nhtsa.gov/sites/nhtsa.dot.gov/files/documents/annualvehiclerecallsince1996.pdf>

# What factors have contributed to the acceleration of these recall trends?

- Technological advances which have enhanced the ability to detect product deficiencies and/or contamination.
- A global reach for our supply chain (utilizing suppliers that we may no longer have a high degree of familiarity with regarding manufacturing practices, quality, etc.).
- Enhanced regulatory compliance efforts based upon scientific research/knowledge.
- Ever evolving legal environments.
- Nearly instantaneous worldwide communications that raise awareness of potential product defects, (while posing new challenges to corporate reputation management strategies).
- Development of enhanced risk management practices targeting increased quality assurance and proactive measures to address potential recall issues as they occur.



# Why does a business need product recall insurance?

Product recall insurance is one of the most important insurance policies that companies who put products into the global stream of commerce should purchase.

While most large organizations purchase the insurance, many other businesses do not. The risk of a product recall has increased exponentially. Stricter global regulatory standards have increased in number, and new product safety rules are continuously implemented. These are positive developments, but for companies, these changes produce more stringent product quality obligations.

Maintaining these commitments is not easy when supply chains are geographically widespread, and manufacturing protocols and standards are not synchronized on a global basis. Human error being what it is, mistakes inevitably will occur.

With the recognition of the catastrophic financial impact that can be incurred with a product recall, preplanning for recall events and addressing risk transfer capabilities through product recall insurance are now being viewed in a similar light as workplace safety programs, business continuity practices, and product safety protocols (with each such program having been developed to mitigate loss and ultimately protect the integrity of the business).





# What type of factors can lead to a recall event?

It is essential to understand why recalls occur.

In an ideal world, every product that we build, buy, or own would be perfect in every way.

The reality, however, teaches us that while perfection is something to strive for in the marketplace, it is often something that is not always attained.

While some may be inclined to think that a recall could never affect their company, the truth is that almost all businesses have the potential to find themselves dealing with the complex and costly challenges of a product recall.

Recalls can most commonly be characterized as resulting from any of the following events or conditions:

1

## Unsafe Products

Products may have an imperfection, deficiency or defect that creates a dangerous situation. As a result, these unsafe products have the potential to cause bodily injury or property damage.

Examples of unsafe products that might trigger a recall event could include:

- Discovery of a faulty switch on an electronic device that could result in electrocution or fire.
- The omission of proper gaskets being installed on an icemaker resulting in water leaks post-installation.
- Identification of furniture that is determined to be subject to “tipping”—resulting in post-sale actions for the distribution of safety tethers to the identified product owners.

2

## **Manufacturing Defects**

Manufacturing defects can potentially result in bodily injury or property damage for those businesses providing component parts to be used in the final assembly of products. A related concern is Impaired Property, which is when the tangible property of others cannot be used, or is less useful because it incorporates a defective product. In this case, a recall event may actually be triggered by the need for the customer to recall the product that incorporates your component item.

Examples that might trigger a recall event could include:

- Manufacture of a power supply used in the electronics industry that is found to be subject to overheating due to an identified flaw in the assembly process.
- Medical device manufacturer identifying a post-sale packaging flaw allowing for compromises to sterile product integrity.
- Custom metal fasteners used by an OEM are determined to have been manufactured utilizing the wrong grade of steel in a production run.

# Unlabeled allergens and mislabeling of food is now one of the most significant reasons

3

## Adulteration

Affecting consumable products, adulteration involves the contamination of products and may include microbiological, chemical, allergen or physical hazard, mislabeling, as well as actual or threatened tampering. Such events can be accidental or unintentional, as well as intentional.

Product adulteration can include:

- Biological contamination such as listeria monocytogenes, E. coli, salmonella, noroviruses, etc., created because of deficiencies or omissions in sanitation practices.
- Unlabeled allergens and mislabeling of food products (now comprising one of the most significant reasons for food-related recalls).
- Malicious tampering – the wrongful alteration or contamination of a product by anyone, which renders the product unfit or dangerous for its intended use or consumption or to create such an impression to the public.

Recalls associated with malicious tampering can have the potential for added costs associated with loss of profits, brand reputation, and potential loss of significant customers.

Examples that might trigger a recall event for adulteration could include:

- Post-production discovery of listeria monocytogenes contamination to processed foods.
- Shipment of food products with improper labeling that failed to identify allergen content (e.g., tree nut or dairy product).
- Discovering that a disgruntled employee “may” have tampered with a production line on his last day of employment.



# What are the common misconceptions about product recall coverage?

## We already have coverage under our General Liability policy.

General Liability insurance is a third-party coverage, which typically does not provide coverage for product recall events.

Product recall insurance is a first party coverage protecting the insured through reimbursement of financial loss and expenses (which are typically excluded on a General Liability policy). Additionally, product recall policies do not require the insured's product to have caused actual bodily injury or property damage.

Knowing that the product is defective or knowing that the consumption of the product could cause injury or damage may be sufficient to trigger coverage under the policy.

Reimbursement under product recall insurance includes the financial costs that can result from an insured event, thus preserving the ability of an organization to continue forward in its business.

In addition to financial protections, product recall insurance provides crisis management consulting services on a pre-and post-incident basis in an effort to minimize the potential for loss, as well as mitigate the adverse impact that a recall event can have on the insured's brand and reputation.

“We have never had a product recall incident in all of our years of operation.”

We have everything under control.

When looking at causation that could trigger a recall event, the human factor is always a consideration. Mistakes in manufacturing can, and do, occur. Most often, such manufacturing errors are inadvertent. However, when such manufacturing errors do occur, the financial and reputational stability of an organization can be placed at risk.

We have a strong quality control program.

Even organizations with the most rigorous quality control programs have the potential to manufacture a defective, impaired, or adulterated product. Such events can be triggered by the simplest deviations in the routine operations of a company, as well as through vendors or other entities utilized in the supply chain.

We carefully screen our suppliers.

Critical in the risk management program of any organization is the presence of a robust prequalification process for those entities utilized in its supply chain. With the administration of such policies, even the most trusted supplier can make a mistake. The result of such an error can lead to a product recall that potentially places the balance sheet of a company in jeopardy.

We have never had a product recall incident in all of our years of operation.

No organization is immune from the potential for a product recall event. Even those firms with industry leading quality assurance and risk management programs can find themselves dealing with the financial, reputational, and administrative challenges of a product recall.



## Common Misconceptions





“We are a small business, so our risk is lower than those big companies.”

We pass all governmental inspections and have certification from third-party auditors.

Recalls do not discriminate. Large companies and small companies alike have the potential to be impacted by a product recall. Small companies, however, may have limited financial resources that could absorb the costs associated with a recall event. This factor, coupled with the reputational damage that can accompany a product recall can create a scenario where a small company's survival may rapidly become jeopardized.

Product recall insurance is too expensive.

Product recall insurance is affordable. Most companies can provide an accounting to the penny of all costs that go into their balance sheet. In considering the costs of a recall event, far fewer entities have a grasp on the potential costs of a product recall.

Recall and collection of the product, accounting, and disposal, communication costs and possible brand/reputation damage are but a few of the costs that most businesses can ill-afford to absorb into their bottom line.

Proportionally, product recall premiums more than offset the catastrophic impact that an uninsured recall event could generate.



# Westchester Recall Plus<sup>®</sup> for Component Parts

- Target risks are manufacturers, importers, distributors, wholesalers and exporters of component parts used in the general manufacturing, automotive, aviation, and medical industries.

## Coverage Highlights

- Customized/tailor-made approach to allow policyholders to select coverages based on what they need to have or what they would like to have.
- Base Form includes recall costs and consultant costs.
- “Add-on” coverages include replacement costs, business interruption, extra expenses, and consequential damages.
- Crisis consultants available 24/7 via our emergency hotline.
- Access to loss mitigation resources provided via Westchester Risk Engineering Services.

## Limits

On a primary basis, Westchester can provide strong lead terms with up to \$5m in limits. On an excess basis, Westchester has up to \$15m in capacity available.

## Minimums

- \$10,000 minimum SIR
- \$5,000 minimum premium for a \$1m limit

## Restricted Classes

- OEM car manufacturers
- Chemicals
- Ingredients

## Submission Requirements

- Westchester's application form
- Copy of Recall and Traceability Program
- Copy of Quality Control Manual (incl. Standard Operating Procedures / Sanitation Standard Operating Procedures and Good Manufacturing Practices)
- Five-year loss history



# Westchester Recall Plus<sup>®</sup> for Consumable Products

- ▶ The target industries are food & beverage companies that are manufacturers, co-packers, importers, distributors, exporters or wholesaler.

## Coverage Highlights

- Customized/tailor-made approach to allow policyholders to select coverages based on what they need to have or what they would like to have.
- Base Form includes recall costs and consultant costs.
- “Add-on” coverages include replacement costs, business interruption, extra expenses, rehabilitation expenses, consequential damages, and adverse publicity.
- Crisis consultants available 24/7 via our emergency hotline
- Access to loss mitigation resources provided via Westchester Risk Engineering Services.

## Minimums

- \$10,000 minimum SIR
- \$5,000 minimum premium for a \$1m limit

## Limits

On a primary basis, Westchester can provide strong lead terms with up to \$2m in limits. On an excess basis, Westchester has up to \$15m in capacity available.

## Restricted Classes

- Nutraceuticals (incl. dietary supplements)
- Pharmaceuticals
- Ingredients
- Products sold / distributed in bulk or as commodities
- Animal feed
- Pet food
- E-Cigarettes

## Submission Requirements

- Westchester’s application form



# Westchester Recall Plus<sup>®</sup> for Consumer Goods

- ▶ Target industries are finished products in the areas of appliances, electronics/electrical, clothes, furniture, household, children's product, outdoor, sports/exercise, etc. for companies that are manufacturers, importers, distributors, exporters or wholesaler.

## Coverage Highlights

- Customized/tailor-made approach to allow policyholders to select coverages based on what they need to have or what they would like to have.
- Base Form includes recall costs and consultant costs.
- "Add-on" coverages include replacement costs, business interruption, extra expenses, rehabilitation expenses, and consequential damages.
- Crisis consultants available 24/7 via our emergency hotline.
- Access to loss mitigation resources provided via Westchester Risk Engineering Services.

## Minimums

- \$10,000 minimum SIR
- \$5,000 minimum premium for a \$1m limit

## Limits

On a primary basis, Westchester can provide strong lead terms with up to \$5m in limits. On an excess basis, Westchester has up to \$15m in capacity available.

## Restricted Classes

- E-Cigarettes
- Software
- E-Bikes
- Drones
- Drop Side Cribs
- Roman Blinds
- Infant Carriers
- Products that are incorporated as a component or constitute a part of any third party's products or goods

## Submission Requirements

- Westchester's application form
- Copy of Recall and Traceability Program
- Copy of Quality Control Manual (incl. Standard Operating Procedures/Sanitation Standard Operating Procedures and Good Manufacturing Practices)
- Five-year loss history

This material contains product summaries intended for use solely by properly licensed insurance professionals. The insurance policy actually issued contains the terms and conditions of the contract. All products may not be available in all states and surplus lines products can be offered only through licensed surplus lines producers. Insurance provided by Westchester Fire Insurance Company and its U.S. based Chubb underwriting company affiliates. Chubb is the marketing name used to refer to subsidiaries of Chubb Limited providing insurance and related services. For a list of these subsidiaries, please visit our website at [www.chubb.com](http://www.chubb.com).

©2020 06/2020

*Westchester*<sup>®</sup>  
A Chubb Company