

# ALERT

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## GLOBAL INSURANCE GROUP

News Concerning  
Recent Insurance Coverage Issues



## GROUND BEEF RECALL DUE TO E. COLI

Kevin M. Haas • 212.908.1322 • [khaas@cozen.com](mailto:khaas@cozen.com)

**O**n October 31, 2009, Fairbanks Farms, an Ashville New York manufacturer of ground beef, issued a voluntary recall of approximately 545,699 pounds of ground beef. The recalled products may be tainted by the potentially deadly E. coli O157:H7 bacterium, which can cause diarrhea, dehydration and kidney failure.

The Food Safety and Inspection Service became aware of the contamination problem during the course of an investigation of a cluster of E. coli illnesses in Connecticut, Maine and Massachusetts. Thus far, the outbreak has resulted in two deaths, one in New York and the other in New Hampshire. The outbreak has also caused 16 hospitalizations and 28 potential illnesses, all but three of which are in the Northeast.

Some of the contaminated beef was sold at retail outlets including: ACME, BJ's, Ford Brothers, Giant Food Stores, Lancaster and Wild Harvest, Price Chopper, Shaw's, and Trader Joe's. These products were packaged on September 15th and 16th with the establishment number of EST 492 inside the USDA mark of inspection. This contaminated beef is now over twenty days past its expiration date and is therefore not being sold fresh in stores. However, such products may still be in consumers' freezers.

The rest of the ground beef was packaged in wholesale-sized containers with the Fairbanks Farms name. These packages were distributed to stores in: Connecticut, Maryland, Massachusetts, New Jersey, New York, North Carolina, Pennsylvania and Virginia. It is likely that these products were repackaged before they were sold to consumers.

Fairbanks Farms has had two other voluntary recalls in the last two years. First, in September 2007, the company recalled ground beef potentially contaminated with E. coli. Then, in May 2008, it recalled ground beef that possibly contained plastic.

As a result of the outbreaks, on the first-party side, we expect food industry customers to seek coverage for the resulting recall, market and customer losses. Further, in the third party context, we expect additional insured claims as well as food-borne bodily injury claims to be tendered.

*Cozen O'Connor is a global leader in representing the insurance industry in all coverage areas. For further analysis of coverage issues involving food contamination please contact Kevin Haas, Chair of Cozen O'Connor's Food Contamination & Product Recall Practice area, in our New York office ([khaas@cozen.com](mailto:khaas@cozen.com), 212.908.1322).*

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