

Farm Liability Insurance

Farmers use general liability insurance to mitigate the financial risk to their business that can result from an action that they, or their employees, take. This guide is intended to help farmers review their farm's general liability insurance policy to determine if it covers all the actions and consequences that are crucial to the business' viability.

Actions likely covered by farm liability insurance coverage

- Car accident resulting from cattle on road
- Neighbor's crop harmed by chemical overspray
- Person injured on business property
- Tractor damage to public road

Managing risk with insurance

Risk can be understood as the chance of an event harming a business or its financial position. One of the most common ways businesses manage risk is by purchasing appropriate insurance. Table 1 lists common types of insurance purchased by agricultural businesses to manage their risk.

General liability insurance, property insurance and workers' compensation insurance all serve important business functions. This guide focuses only on general liability insurance. Understand, however, that it may be prudent to carry multiple types of insurance to fully meet your business's risk management needs.

Insurance basics

At its most basic level, insurance transfers risk from one party (the business) to another (the insurance company). Insurance companies manage risk by pooling. They insure many businesses with the expectation that only a few will have a claim over time. Those businesses with no claims provide the funds to cover the losses of businesses that do have claims.

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Table 1. Common types of farm insurance.

Type of insurance	Actions covered	Consequences covered
General liability insurance	Accidents occurring to others related to the business — customers, vendors, guests, neighbors, etc.	Pays the injured person (not the insured business) for losses
Property insurance	Accidents occurring to business assets	Pays the insured for losses — e.g., payment to rebuild or repurchase an asset
Workers' compensation	Accidents or occupational diseases affecting employees caused by or related to employment	Pays employee medical and rehabilitation expenses, provides a subsistence allowance to replace lost wages, and compensates for permanent disability

For an insurance company to accept a business's risk, they require compensation in the form of an insurance premium. The insurance premium covers the expected cost of accepting the liability plus the cost of managing the insurance company.

Many farmers consider premiums paid to be of primary concern when deciding which policy and the amount of coverage they will purchase. This guide discusses premiums and other important considerations to help you effectively manage business risk.

Liability insurance

General liability insurance covers the insured person or business when they are legally responsible for damages to others. The insurance company providing the liability coverage pays the legal obligations for harm unintentionally caused to other people or property by the insured person or business.

General liability insurance often covers legal defense costs when another person brings a lawsuit alleging harm. The cost of defense can include attorney fees, discovery, trial preparation and other legal costs. The

policy also pays the injured for any judgment obtained, up to the maximum coverage purchased by the business.

General liability insurance does not cover illegal activities, fraud and intentional damage. Such action can be grounds to deny a claim.

General liability insurance policies state specific coverages, exclusions and the maximum amounts of liability that will be covered while the policy is in force. When a claim is made on the liability insurance, the insurance company will ask these three questions:

- What happened?
- What damage or injury resulted from what happened?
- Is the policyholder legally liable for the damages?

Disappointment with insurance most often occurs when an insured business does not fully understand what is and is not covered by their general liability insurance policy. Also, insured farmers discover that they have insufficient, or no, coverage if their farm activities and size do not sufficiently match the business description given when the policy was purchased. Businesses change focus and size over time and need to inform their insurance company of those changes as they occur. Do not wait until a claim is made on the policy.

The amount of liability insurance you purchase depends on the level of protection you deem necessary for your business.

It is important to be candid with the insurance carrier at these three key times:

- When first obtaining the policy
- When renewing the policy
- Any time there is a change in your business that might increase the insurance company's risk

Key questions when purchasing liability insurance

Every liability insurance policy is a contract between the insurance company and the insured person.

Insurance contracts contain these details:

- Identity of the parties to the insurance contract and their mutual obligations
- What is covered
- What is not covered
- The timing for important obligations
- Locations where the farmer conducts business
- The extent of the insurance coverage
- Premium cost

Reviewing liability coverage options is fostered by focusing on the questions of who, what, when, where, and how much.

Who is covered?

Liability insurance policies specify whose actions are covered. The policyholder is always included.

Legal business entities operating as the business of the policyholder must be listed in the policy. Relatives of the policyholder are usually, but not always, covered.

Employees are usually covered if the policy notes employee coverage and the application for insurance accurately notes that employees are part of the business. A general farm liability insurance application normally requires listing the number of employees in the business, usually providing groups like "0," "1 to 5 employees," "6 to 10 employees" and so on. Fully disclose the nature of your farming operation and confirm the coverage of all farm employees with the insurance agent. For example, if your business had two employees when you applied for insurance but has grown to seven employees, inform your insurance agent of that growth.

Agricultural employment can create challenges for properly insuring a business. Many farm workers are seasonal and short term. Some may be paid on a lump sum, or on a per job or per day basis, and many may work for multiple farms. Because these situations are common, insurance companies can accommodate them when made aware of them. Ask insurance agents specific questions about how the actions of temporary employees will be covered. Make sure you are comfortable with the way the policy recognizes seasonal employees. Obtain answers to your questions in writing.

Use of contractors is an important business activity to discuss when obtaining liability insurance. Farmers frequently hire other businesses to do activities such as field spraying, livestock handling and grain transportation. You need to know whose liability insurance will cover harms incurred by the actions of a contractor conducting business for you. Asking contractors for a copy of their liability insurance coverage may be an important risk management activity.

If an independent contractor has an accident while working for a farmer, both liability insurers will be involved in the investigation. If you employ independent contractors, ask your insurance agent how the insurance company would deal with an accident involving one of them.

What damages are covered?

General liability insurance covers damages sustained by others due to the actions of the insured.

Damage to someone else's property is commonly covered. So, an action occurring on your farm that damages a specific part of a neighbor's property or their crop value would normally be covered.

Bodily injury to a nonemployee and liability for compensatory damages in a personal injury case are also

normally covered. Note that employee injuries are not normally covered by liability insurance; these types of injuries are covered by workers' compensation insurance.

Farmers may be surprised by the actions not covered by general liability insurance. Bodily injury to a friend visiting the farm is covered, but bodily injury to a family member that occurs on the farm may not be covered. Damage to a neighbor's fence from your tractor will normally be covered, but it might not be if the damage occurred during custom farming activities.

General liability insurance policies often clearly state exclusions, or activities not covered. These lists serve to alert policyholders to actions that they might mistakenly assume are included. In most cases, it is possible to purchase an endorsement or a rider to cover activities typically excluded from coverage.

Exclusions (actions not normally covered)

- Custom farming
- Farmers market sales
- Boarding horses or dogs
- Chemical spraying
- Agrotourism
- Nonfarm activities such as snow removal
- Pollution

Endorsement

- A rider to insurance policies to cover certain exclusions and other special activities

Liability insurance policies state the maximum dollar liability per occurrence and maximum dollar liability for all occurrences in each coverage category. For example, the policy might state that the maximum dollar payout for accidental chemical drift is \$100,000 per occurrence and a total of \$300,000 per year. Consider whether both the per occurrence rate and the maximum dollar liability for all occurrences are sufficient to protect your business.

Legal defense costs are often covered in liability insurance. One question for your insurance agent is whether the legal defense costs are considered part of the maximum dollar liability or are in addition to the maximum dollar liability.

Periodically review your general farm liability insurance to confirm that your business has not changed significantly since the policy was initially issued. You might discover that you are doing something you consider an acceptable farming practice, such as custom harvesting or trucking, but it is not covered. Sometimes,

farmers naturally expand their enterprise in some way that is not covered by their existing policy, such as listing a farmhouse as a bed and breakfast or issuing a hunting lease for a piece of property that is also farmed for grain. Significantly increasing the number of acres farmed or employees hired can also create confusion when a claim is filed and the insurance company notices that the business had been much smaller when the policy paperwork was filed.

New technologies also pose challenges for liability insurance coverage. When dicamba drift initially occurred, it was a new risk. Different insurance companies covered liabilities from dicamba drift differently. Drones are also a new technology that may be covered in some situations, such as when flying drones over land you farm. Drones might not be covered when being flown over land you don't farm, if they exceed a certain size or are being used as part of a custom activity.

When does the coverage apply?

Most general farm liability insurance policies are sold for one-year periods. Policies can be purchased for shorter periods to cover specific events. They can also be modified to cover exclusions for a specific period.

To be covered, an activity that creates liability must occur within the coverage period of the insurance policy.

Insurance companies do not cover incidents that occur after a policy has expired or conditions that existed before the effective date. An insurance company may audit a farm before insuring a business to verify a preexisting condition, such as an environmental hazard, that the insurer may be expected to cover does not exist.

Payment for damages may extend beyond the coverage period if the activity that caused the damage happened during the coverage period. For example, the medical expenses of a person injured in a cow collision on a public road while the farm was insured will be covered even if those costs are incurred after the policy's expiration date.

The dollar liability per occurrence and total dollar liability reset each year on a policy's anniversary date. If you receive a liability payment near that date, expect the insurance company to scrutinize your current business prior to renewal.

Where does the coverage apply?

General farm liability insurance covers accidents that occur to persons on the business premises.

Activities that occur on the business premises but create conditions that affect a neighbor's livelihood, such as smoke or chemical drift, may be covered if not mentioned as an exclusion.

Coverage extends to accidents that occur off-premises during the conduct of farm business and usually includes accidents involving business-owned equipment away from the farm.

Uncertainties can occur when it is not clear that the equipment involved in the accident was being used by and was owned by the business covered by the liability insurance. For example, if you were to allow an employee to take a business truck on a weekend hunting trip and an accident occurred, questions might arise about coverage because the truck was not being used for business purposes.

How much coverage to have?

As mentioned earlier, liability insurance policies specify these limits:

- The maximum dollar liability per occurrence
- The maximum dollar liability for all occurrences in specific coverage categories
- The aggregate dollar liability for all occurrences during a single insurance period

Premiums are based on the risk profile of the business and the amount of coverage purchased.

The purpose of purchasing liability insurance is to manage risk for your business. Smaller businesses usually purchase less coverage than larger businesses because they have fewer assets exposed to risk.

Insurance agents can generally issue liability insurance up to a certain coverage amount, commonly around \$1 million per occurrence with an aggregate limit of \$2 million. Larger insurance policies require additional scrutiny by insurance company underwriters. If the coverage requested seems inappropriate — either too little or too much — for the size and risk profile of the business, approval by a company underwriter may be required.

Risk profile refers to the relative riskiness of a business's practices. Selling sweet corn at the farmers market is riskier than selling corn grain at a terminal.

An **underwriter** is a professional who evaluates the potential risks to an insurance company of providing certain coverage.

Umbrella policy

An umbrella policy provides additional liability protection. It is intended to cover liabilities in excess

of the maximum dollar limitations of a general policy. For example, if your general farm liability insurance has a maximum dollar limit of \$100,000 but a liability of \$150,000 occurs, the excess \$50,000 would be paid by the umbrella policy.

Umbrella policies also insure for actions not typically covered by general farm liability insurance. For example, they may cover liability for slander or libel.

Premiums for umbrella policies are usually low for the amount of coverage obtained because an umbrella policy is used only after general farm liability limits are met, reducing the probability of its use. Umbrella policies are useful to protect persons with significant assets that might be endangered by a lawsuit.

Policy review

Conduct a thorough annual review of your general farm liability insurance to ensure adequate protection. Keep your insurance agent informed about the nature and size of your business. Notify your agent of any planned changes to your business during the policy term.

Invite your insurance agent to the farm to discuss specific questions you have. Reveal all activities done — even if only occasionally — on the farm, asking if they will be covered. If the response seems uncertain, ask for answers in writing.

Evaluate general liability insurance restrictions in the context of your business's regulatory obligations. Illegal activities may be grounds to deny a claim. For example, federal and state laws require that anyone spraying a restricted-use pesticide complete special training or certification, or both. Even if you purchase a spray endorsement, the insurance company might deny a related claim if you failed to have your employees complete the training.

Ask for clarification of exclusions. For example, pollution is often an exclusion on liability insurance policies. If you raise animals, ask if manure runoff into a stream is covered. If you are a grain farmer, ask whether a chemical or fertilizer spill would be covered.

Insurance is a tool to transfer risk to a company that is more prepared than the insured party to manage that risk. When selecting a policy, remember that premiums are an important, but not the sole, consideration. Seek insurance policies that meet the types of risks you face and cover the financial liabilities you cannot afford to pay.