PURDUE PESTICIDE PROGRAMS

Purdue University Cooperative Extension Service

The Insurance Policy

Protecting Your Business by Understanding Your Policy

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INTRODUCTION

Pesticide application business owners devote considerable time, energy, and money to position their companies favorably in a highly competitive market. Product availability, pricing structure, quality of service, employee hiring practices, and employee education must be continually reevaluated in the face of stiff competition and an ever-changing, demanding public. If your business is to prosper, you must deliver what the public believes to be an indispensable service, priced right and backed by a strong commitment to deliver. Businesses that do not adjust to public demands are seldom afforded a second chance. Customers move on to do business with companies more attuned to their needs, and your chances of winning them back are slim. The finality of business opportunities missed and customers lost and the inability to build a new clientele are the ultimate results of failure to deliver quality service. Yet, as critical as this is, it doesn't even begin to touch upon the role of a sound business insurance program.

Insurance? You never seem to have the time to give it the attention it deserves. But guess what is at risk: a lot! Failure to plan and manage your business insurance program can put at risk all that you have worked for: your business, your home, your savings—everything! You could end up owing thousands of dollars. Doesn't it deserve your attention?

Planning for Unforeseeable Risks

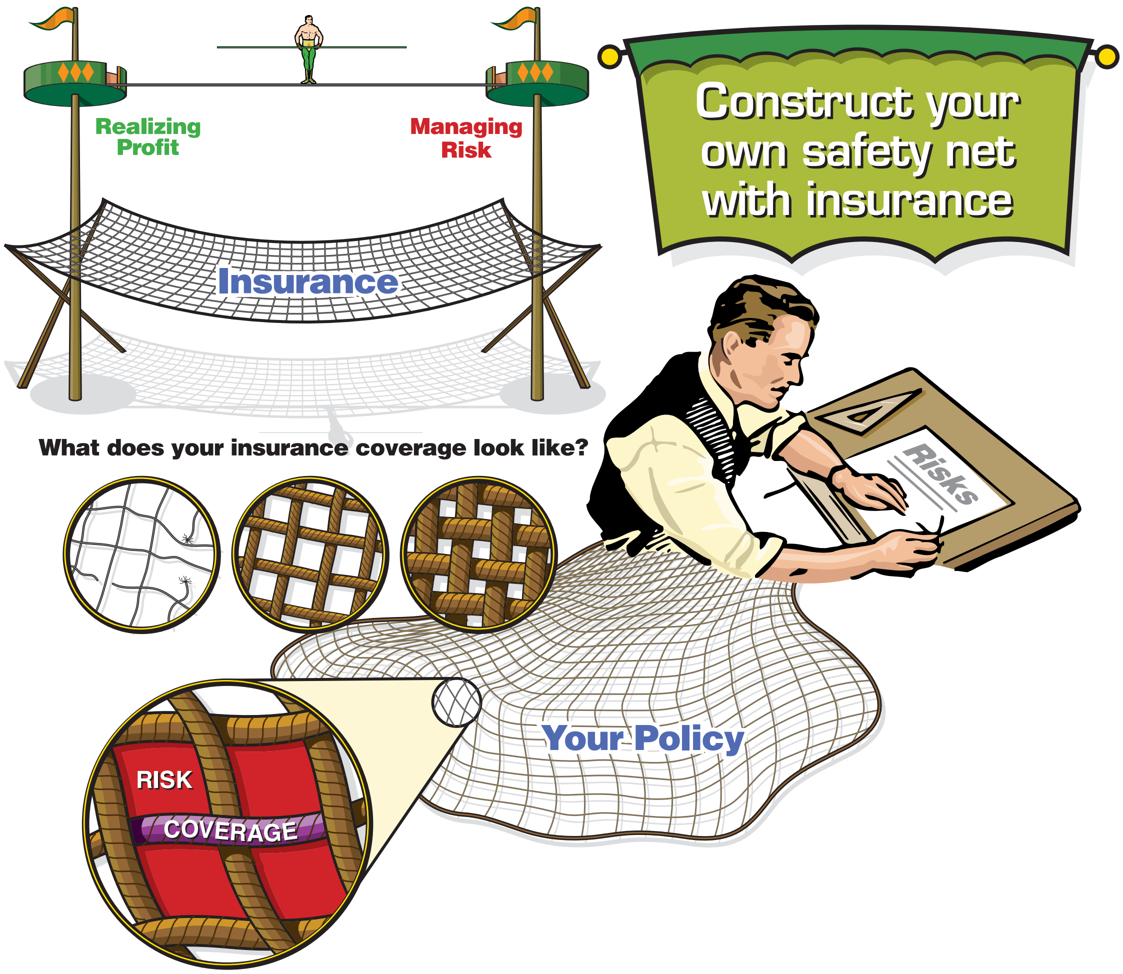
Pesticide application business owners must plan for risks that have nothing to do with marketplace pressure: unforeseeable risks that may include partial or total destruction of their facilities by fire, flood, windstorm, or earthquake; employee injury or death on the job; and lawsuits by customers or other third parties demanding compensation for real or alleged personal injury or property damage.

Planning your business future means taking the time to examine all aspects of your operations

- to determine what the consequences of a pesticide accident might entail, and
- to implement preventive measures to ensure against the likelihood of accidents in the first place.

This is called *risk management,* and a sound insurance program is the nucleus.

Insurance is an integral component of good business planning, but business owners need to be directly involved in its procurement. Those who are not may be subjecting themselves unnecessarily to the ravages of claims not covered by their insurance plan. Uncovered claims may result in cash outlay for remuneration and legal expenses. Factor in the possibility that your insurance agent and/or insurer might not be experienced or knowledgeable enough to handle pesticide-related claims, and



you have a nightmare that can be financially disastrous. Leaving insurance decisions solely to the discretion of others is not good business. Don't assume that all policies are the same, and don't rely on Lady Luck: You'll lose.

The unfortunate consequence of leaving insurance decisions to someone else may not strike home until a claim is turned down or disputed by the insurance company. For instance, a fire burns the main office to the ground. You quickly file a claim so that the process of rebuilding can begin and the business can resume operations. But, unfortunately, the policy was written years ago to cover the *cash value* of the building, not *replacement cost;* and the cost of rebuilding the structure according to current standards by far surpasses what the insurance will pay. This is when—much too late—the importance of an annual evaluation of your insurance needs is recognized. This type of situation can be avoided simply by purchasing replacement cost coverage.

This publication is intended to guide you toward informed decisions on insurance coverage and to make you aware of your rights as a consumer. Owners who understand what they are purchasing and who participate actively in the risk assessment and insurance procurement processes place themselves in a good position to protect their businesses from financial loss.

INSURANCE COVERAGE: EXPECTING THE UNEXPECTED

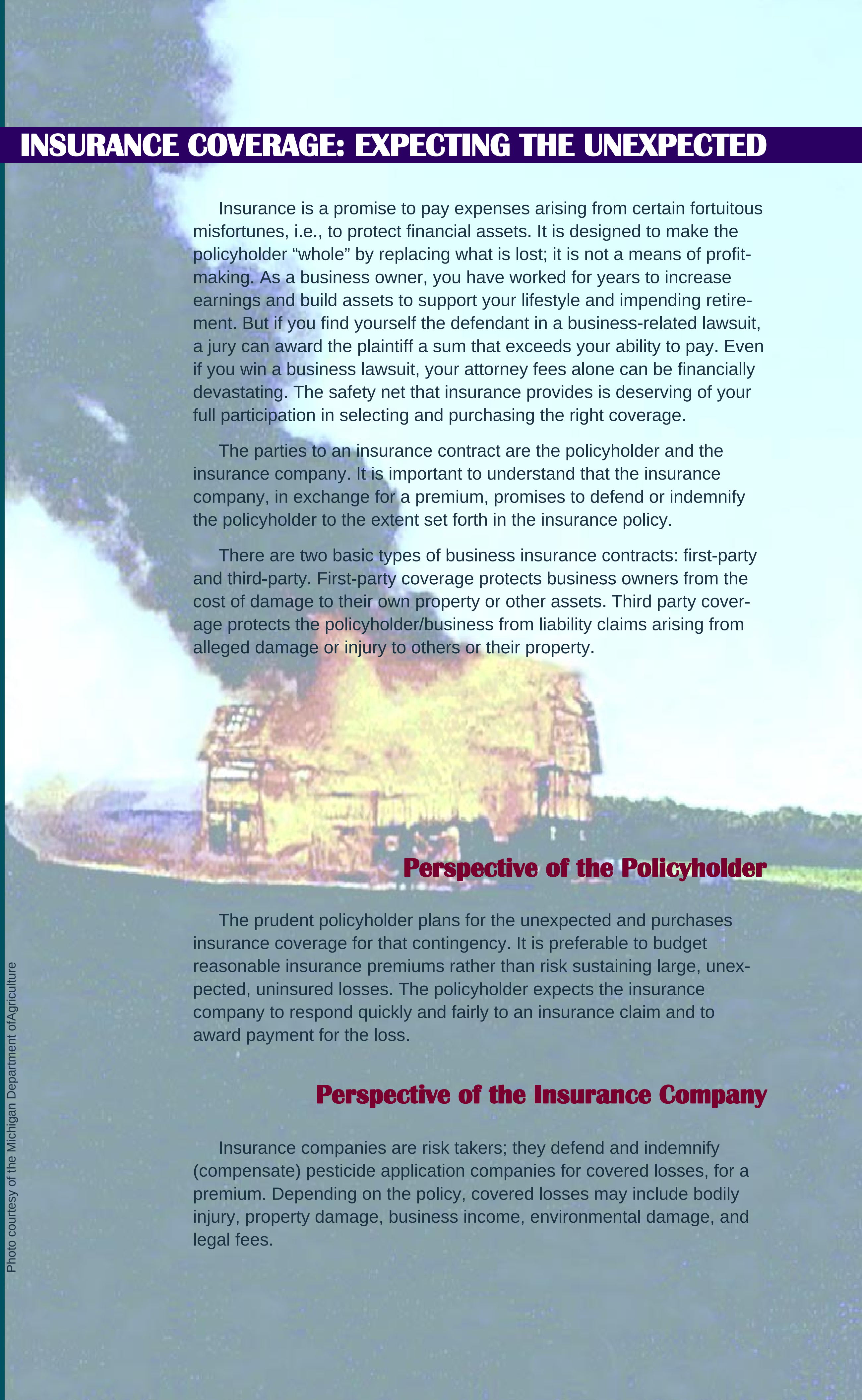


Photo courtesy of the Michigan Department ofAgriculture

Insurance is a promise to pay expenses arising from certain fortuitous misfortunes, i.e., to protect financial assets. It is designed to make the policyholder “whole” by replacing what is lost; it is not a means of profit-making. As a business owner, you have worked for years to increase earnings and build assets to support your lifestyle and impending retirement. But if you find yourself the defendant in a business-related lawsuit, a jury can award the plaintiff a sum that exceeds your ability to pay. Even if you win a business lawsuit, your attorney fees alone can be financially devastating. The safety net that insurance provides is deserving of your full participation in selecting and purchasing the right coverage.

The parties to an insurance contract are the policyholder and the insurance company. It is important to understand that the insurance company, in exchange for a premium, promises to defend or indemnify the policyholder to the extent set forth in the insurance policy.

There are two basic types of business insurance contracts: first-party and third-party. First-party coverage protects business owners from the cost of damage to their own property or other assets. Third party coverage protects the policyholder/business from liability claims arising from alleged damage or injury to others or their property.

Perspective of the Policyholder

The prudent policyholder plans for the unexpected and purchases insurance coverage for that contingency. It is preferable to budget reasonable insurance premiums rather than risk sustaining large, unexpected, uninsured losses. The policyholder expects the insurance company to respond quickly and fairly to an insurance claim and to award payment for the loss.

Perspective of the Insurance Company

Insurance companies are risk takers; they defend and indemnify (compensate) pesticide application companies for covered losses, for a premium. Depending on the policy, covered losses may include bodily injury, property damage, business income, environmental damage, and legal fees.

Insurance companies are unique in that they charge for a hypothetical product; that is, they cannot predict with certainty whether a claim will be made against them or what expenses they will incur. Therefore, they predict expenses based on statistical information from past claims. They set premiums to cover contingent expenses and generate a reasonable profit.

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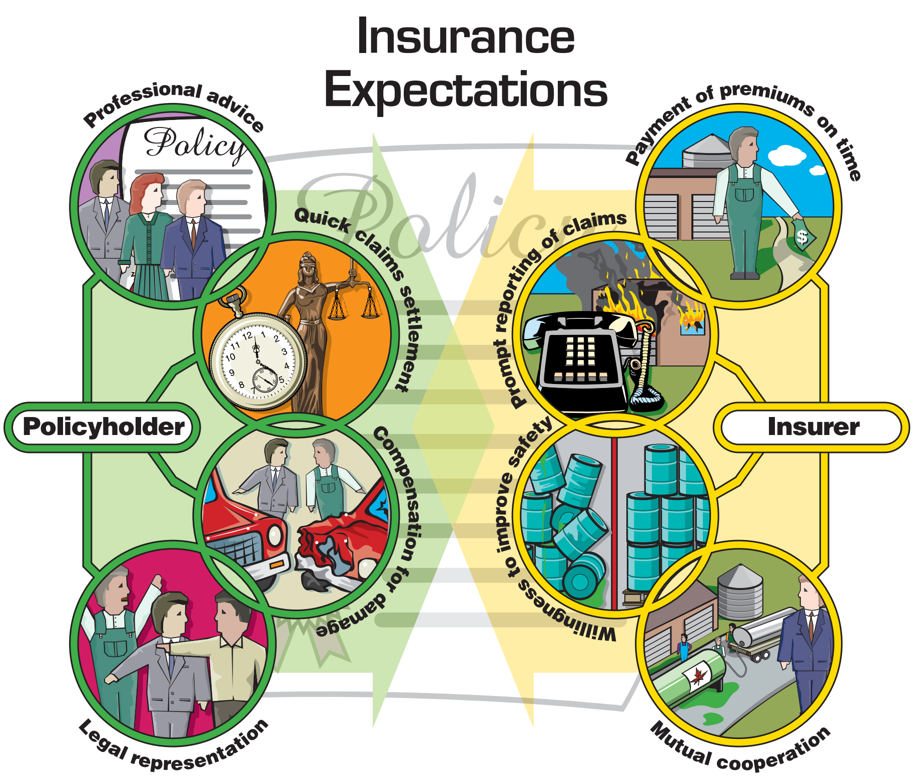
Insurance companies use actuarial formulas to predict loss; they also use statistical data to estimate the cost of associated litigation and other expenses. The greater the magnitude and frequency of claims, the more expenses incurred by the insurance company; and the higher the projected expenses, the higher the premium. Insurance companies that experience low levels of loss may set lower premiums than those whose claims history shows higher losses.

Businesses that perform high-risk operations typically are charged higher premiums than are those whose operations are low-risk. Insurance companies review individual pesticide application businesses' loss experience and business practices to determine appropriate fees. Business-specific information on loss history and risk management determines whether the business is charged higher or lower premiums than are other businesses that perform similar operations.



Coverage Alone Is Not Enough

Purchasing insurance is easy. In fact, it's so easy that all you have to do for some policies is answer a few questions over the phone and fax or mail an application. People believe that they can buy an insurance policy that covers just about everything; but while such policies make it easy to *think* you are fully protected, it is very likely that you are *not.*

Never assume that owning insurance means total protection. This can be a costly mistake because every policy has exclusions. Do not assume coverage if you have not read your policy. The very claim you file might be refused by exclusion.

The Lowest Price Might Not Be the Best Deal

There's no doubt about it: Just shop around and you can find the company that quotes the lowest vehicle coverage and another that offers the best deal on property insurance. But while shopping on the basis of price alone may save you money, up front, what happens when you file a claim?

It is generally recommended that pesticide application businesses purchase their insurance from a single insurance company—and from one agent who makes an effort to stay attuned to their insurance needs—instead of contracting coverage through multiple carriers.

Insurance companies use the policyholder's loss-to-premium ratio to determine account profitability; and when a business purchases its vehicle, general liability, worker's compensation, and property damage coverage from one underwriter, more of the premium dollar is available to offset losses. In other words, paid claims have a smaller loss-to-premium ratio in proportion to the higher premium.

Other advantages include the following:

- Gaps in coverage are easier to avoid if the entire insurance portfolio is contracted with one company.
- Some insurance companies provide periodic physical inspections of the policyholder's business facilities. These safety and loss control inspections can pinpoint areas that raise liability concerns for both the business and the insurance company. The more insurance that is purchased and the more knowledgeable an insurer is about your business, the more comprehensive the review.
- Insurance companies generally offer rate discounts for purchasing multiple coverage.
- Insurance agents who provide all lines of coverage for your business develop a broader awareness of your needs, which leads to better advice and better service.

THE INSURANCE POLICY IS A LEGAL CONTRACT

Having a million dollars' worth of insurance sounds impressive; but if your loss is excluded, what good is it? It is critical that you read every word of your insurance policy because the old adage "The devil is in the details" fits like a glove!

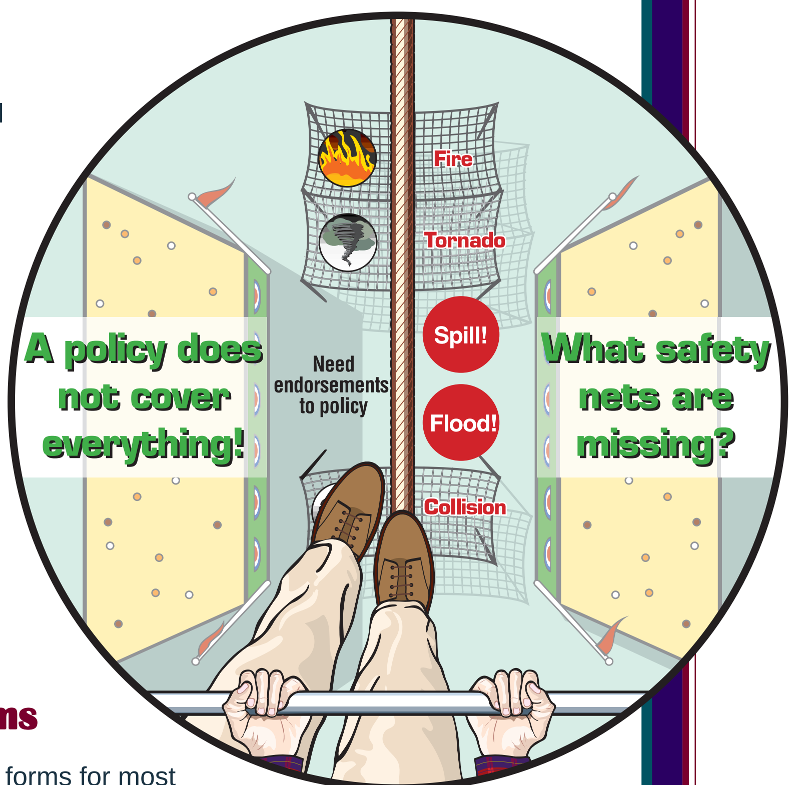
Many insurance policies—be they automobile, general liability, or whatever—contain clauses that obligate the insurance company to cover all risks not otherwise excluded. Example: A liability policy might state that "We will pay all sums that you are legally obligated to pay resulting from. . ." But it is the language following that statement that determines who, where, what, and when a policy will pay, so set aside an afternoon to read your policy in-depth. Call your agent for a full explanation of segments you don't understand. *Know what you have purchased.*

Reading the Policy

What makes an insurance policy a legal contract? There are three key elements:

- An offer by the insurance company to provide coverage
- The payment by the insured of a premium for the coverage
- The acceptance of a premium by the insurance company

Read all insurance policies carefully! A policy may provide basic coverage, take it away wholly or partially by exclusion, then add part of the coverage back in by way of endorsement. Because of this give-and-take approach to writing insurance, careful review of policy language is warranted.



Standardized Insurance Forms

Insurance companies use standardized forms for most insurance *policies.* The forms often are copyrighted by an independent but industry-supported group that comprises the Insurance Services Office (ISO). Use of ISO forms provides a means of ensuring that the insurance company is providing coverage that meets industry standards. What this means to the policyholder is that the dos, don'ts, whys, and hows are uniform, industry-wide. Identical policies may be issued by various insurance companies that use the same ISO forms; the differences in coverage are determined by the endorsements added.

The copyright statement of the Insurance Services Office is located at the bottom of each page of the insurance policy; its absence indicates a nonstandard form. The variation might benefit the policyholder by providing better coverage, or it might offer less coverage than the comparable

ISO provision. Ask your agent why the ISO form was not used and, more specifically, what differences in coverage result.

Key Elements of the Insurance Policy

An insurance policy describes the conditions under which the insurance company agrees to insure in exchange for the premium that the policyholder agrees to pay. The *Declarations* page and the *Common Policy Conditions* are the two sections that bind together the entire insurance policy.

Declarations — Overview of coverage

The *Declarations* page, normally the first page of the insurance policy, provides a quick reference to

- the type of coverage,
- the name and address of the policyholder,
- the policy period (beginning and ending dates of coverage),
- the policy number,
- the agent's name,
- the type of coverage provided,
- the covered amount,
- the policy limits (per occurrence as well as aggregate),
- the premium, and
- the method of payment.

It also lists all forms attached to the policy as part of the contract—and this is important.

Policy language determines the amount that is paid on a claim. For instance, consider a property damage policy on a building. Let's say that the building is insured for $100,000 and is completely destroyed by fire. The insurance company may legally pay *less than $100,000* if

- the insured amount is less than that required by the coinsurance clause;
- the building has been vacant for more than 60 days;
- the building can be replaced for less than $100,000 with "like kind and quality" construction; or
- hazardous operations of which the insurer was unaware took place in the building.

The point here is that policy language can limit or nullify your coverage.

Multiple Locations and Corporations

Some companies operate out of branch offices scattered across the state or country. Others operate multiple corporations (e.g., lawn care, irrigation, snow removal, landscaping) out of a single location. In either case, the name of each and every business entity must appear separately on the insurance policy. They may be listed on the Declarations page or by an endorsement naming additional insureds.

Legal Statements

There are a number of important legal statements included in insurance policies. One example states that “in return for the payment of the premium, and subject to all the terms of this policy, we (the insurance company) agree with you (the policyholder) to provide the insurance as stated in the policy.” The interpretation is that the insurance policy is a legal contract, the terms of which determine how the policy will be interpreted by the insurance company and (in litigation) by the courts.

More examples:

- “These declarations together with the common policy conditions, coverage parts, and forms and endorsements, if any, issued to form a part thereof, complete the above numbered policy.” In other words, interpretation of the insurance policy must include consideration of its entire contents.

- “All words and phrases printed in bold face or in quotes are defined in the policy.” Or: The interpretation of coverage will be based on how certain words are defined in the policy. The policy’s *Definitions* section should be examined carefully.

Common Policy Conditions — Your rights and responsibilities

The *Common Policy Conditions* comprise an important section outlining the rights of both the insurer and the policyholder. Examples of Common Policy Conditions: statements on cancellation; policy changes; right to examinations and inspections; transfer of rights; and payment of premiums.

Key Clauses Found in Common Policy Conditions

- The policyholder may cancel the policy for any reason, at any time, by simply mailing a notice of cancellation to the insurance company. The right of the insurance company to cancel an existing policy is more difficult, but common justifications for cancellation are nonpayment of the premium and discovery of hazards not identified to the insurance company at the time of policy issue. Even then, the insurance company is required to give at least a 10-day notice. All other reasons for cancellation require the insurance company to provide a 30-, 45-, or 60-day written notice of cancellation (time varies by state).

- The insurance company has the right to examine financial records of the insured company at any time during the policy period, and usually up to three years afterward. Insurance companies reserve this right because premiums for some types of coverage (e.g., worker's compensation and general liability) are based on payroll and sales. Inspection of the insured's records helps to verify that the policyholder has disclosed payroll and revenue figures accurately.
- The insurance company is allowed to conduct periodic inspections of the policyholder's property to verify that operations meet state and federal safety and environmental regulations and, more importantly, the insurer's own minimum underwriting standards and guidelines. The purpose of such inspections is to reduce or eliminate situations or practices which might lead to future losses.
- The policyholder should contact the insurance company promptly when something that could possibly trigger a loss occurs. If not, the insurance company may deny coverage based on *prejudice.* The term *prejudice,* in this context, means that the insured has in some way (e.g., by not notifying the insurance company promptly) hindered the ability of the insurance company to settle the claim satisfactorily. The insurance company may be required to demonstrate prejudice when it is used as a basis for denial.

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Carefully review the section of your policy that states what actions to take in the event of an occurrence, claim, or suit. Pay particular attention to who should be contacted and what form of notice is required.

Subpolicy Components

Some insurance policies contain subpolicies that provide different types of coverage. Every subpolicy contains the following components that help to explain how the policy is to be interpreted, how the insurance company will respond to claims, and the amount that the insurance company will pay: *Insuring Agreement, Conditions, Exclusions, Endorsements,* and *Definitions.*

Insuring Agreement Risks covered

The *Insuring Agreement* describes the risk that the insurer has agreed to assume, i.e., the coverage that it will provide. For instance, the Insuring Agreement in liability policies commonly begins with “We will pay those sums that the policyholder becomes legally obligated to pay as damages . . . .” The final wording depends on the type of coverage involved. This initial broad promise of coverage may be modified in sections dealing with *Conditions, Exclusions,* and *Endorsements.*

Conditions Claim payment limitations

Statements in the *Conditions* section narrow the coverage provided by the policy. For instance, property policies usually contain a condition stating that the insurance company will not insure a vacant property for vandalism, sprinkler damage, glass breakage, water damage, theft, and attempted theft.

Key areas addressed in the Conditions section:

- The maximum that the insurance company will pay
- How deductibles will be applied to a claim
- How losses will be paid (e.g., depreciated value versus replacement cost; repair versus replacement)
- Information on the use of an independent appraiser when claims are disputed
- The policyholder’s responsibilities (e.g., reporting crimes to local police; providing prompt notice of claims to the insurance agent or insurance company).

Exclusions Risks not covered

Risks that the insurance company has not agreed to assume are listed in the *Exclusions.* Common risks excluded from liability policies are pollution and damage to the property of others, real or personal, in the care, custody, or control of the policyholder.

There usually is an exclusion for contractual liability, including warranties or guarantees, whether verbal or in writing, that policyholders might enter into with their customers. It is important to remember that general liability policies are intended to cover claims arising from unexpected events or from the policyholder’s negligence. A general liability policy usually does not cover (and therefore is not priced to cover) claims arising from contractual obligations, except for specific types of contracts listed in the policy.

Exclusions limit, modify, or restrict how the Insuring Agreement applies. A risk may be excluded because it is more appropriately covered under a different type of policy, or because the insurance company does not want to assume the risk at the premium quoted. Examples are arson by the insured, poor workmanship, and intentional acts.

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Sometimes the subject of exclusion can be covered at a higher premium. Coverage for floods or pollution are good examples. In cases where there are particular risks for which you want coverage, but which your base policy does not cover, ask your insurance agent how you might be able to obtain that coverage. Although it may be excluded at the base rate for the policy, it may be available for an increased premium, in which case the policyholder would have the choice.

One typical exclusion from standard general liability coverage deals with property under the care, custody, or control of the business. Examples: A lawn or field is burned when an applicator accidentally applies the wrong herbicide. In either case, the damaged property is directly under your care, custody, or control; therefore, the exclusion applies and the claim for reimbursement of the homeowner or the farmer may be denied.

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In both cases, the damage could have been covered by exndorsement at the time of purchase. However, if those same applications drift onto a neighboring lawn or farm, the resulting damage is covered because those areas are not under the policyholder's care, custody, or control. It can get confusing, so always consult your insurance agent and your insurance company underwriter.

Endorsements — Additions, deletions, modifications of coverage

Endorsements can add, remove, modify, or clarify coverage specified in the Insuring Agreement, Conditions, Exclusions, and Definitions. Frequently it is these endorsements that actually differentiate policies among companies.

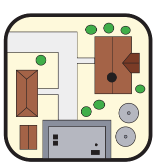
Endorsements give warning to the policyholder via the wording: “This endorsement changes the policy. Please read it carefully.” Following this warning is the name of the endorsement (e.g., Pollution Liability Coverage), followed by a statement that identifies the specific modifications provided by the endorsement.

An endorsement may refer the reader to a specific part of the policy: “This endorsement modifies the pollution exclusion under section F2a.” In these cases, it is wise to photocopy the original policy and mark the changes, then reread the policy. It is commonly difficult to make sense of the endorsement, itself, out of context.

Definitions — Meanings of key words

The *Definitions* section defines key terms found in the policy. These definitions can be critical when claim disputes arise: It’s all in the wording! When a term is not defined by the policy, most states require that it be interpreted from the perspective of an ordinary person of average intelligence. Many states (including Indiana) require that ambiguous terms or phrases in insurance policies be interpreted in favor of coverage.

COMMERCIAL PROPERTY INSURANCE



Protect your real and personal property with good *Commercial Property Insurance.* Ask your insurance agent as many pertinent questions as possible, early in the insurance buying process. Some examples are listed below.

- *What property is covered by the policy?* Property insurance should cover direct physical loss or damage to buildings and structures, fixtures, permanently installed fixtures, machinery, and equipment. It should provide coverage for personal property such as furniture, fixtures, computers, etc. Make a list of those items that are definitely worth protecting, and make sure that they are covered by the policy. Carefully review exclusions that remove coverage for certain types of property. Keep an itemized inventory list with values of furniture, equipment, etc., and provide a copy to your insurance agent.
- *What perils are covered by the policy?* Perils are the cause of a loss. Some property insurance policies cover certain perils (e.g., fire, lightning, explosion, water damage, wind) but exclude others (e.g., earthquakes, floods). If your business might face risk from an

excluded peril, ask your insurance agent how much it would cost to purchase an endorsement for the coverage, and weigh that information against the likelihood of the event occurring in your location. Always thoroughly review the Exclusions section of your insurance policy.

- *Are the insurance limits adequate?* The maximum amount of insurance recovery is set by the limits of the policy. Any loss over those limits is uninsured. Be careful when buying a low-priced policy since the lower premium may reflect unacceptably restricted coverage.
- *Does my policy satisfy the coinsurance requirement?* Property insurance policies may include a coinsurance clause applied separately to your buildings and contents. The coinsurance clause requires a policyholder to carry a minimum amount of property insurance, such as 80, 90, or 100 percent of the replacement cost of the insured property. Insuring property for less than the required coinsurance amount can result in a penalty at the time of loss, regardless of the size of the claim.
- *What type is my property policy form?* There are three general types of forms: *Special* (all risk), *Broad,* and *Basic.* The Special form offers the widest coverage available, in that it covers all perils not specifically excluded. The Broad form covers only those perils that are specifically listed, such as fire, wind, theft, and collapse. The Basic form is very restricted. It covers only a few perils, usually just fire and lightening.

Note the proximity of the fire site to storage tanks.

Endorsements

Endorsements are provisions that modify the standard policy. Although they contain standardized language developed by the insurance industry, subtle differences in wording can affect the scope of coverage. Examples of property insurance endorsements include the following.

- *Flood and Earthquake.* Consider adding this endorsement if your business is located in an area that is susceptible to earthquakes, floods (e.g., high creeks), and sewer backups.
- *Business Income.* Otherwise known as business interruption coverage, the Business Income Endorsement covers indirect losses that result from a fire or other direct damage. When insured damage causes an interruption of business, revenues are lost but expenses may continue. Additional expenses may be incurred, as well: rent or lease of a temporary facility; overtime pay; phone lines and other utilities, etc. Extra expenses incurred in maintaining business operations after an incident may even surpass normal operation expenses. Statistics show that most small businesses fail to reopen after a catastrophic experience, due to insufficient capital.
- *Off-Premises Utility Interruption.* Utility interruption that occurs away from your insured premises is excluded under property coverage if your building or its contents are not directly damaged. The Off-Premises Utility Interruption endorsement covers loss of business due to utility interruption (power, water, gas, telephone) resulting from an insured occurrence away from your premises.
- *Replacement Cost.* Property insurance can be purchased to cover either replacement cost or actual cash value. Replacement cost is the amount it would take to replace the building or other property at current prices. Actual cash value is adjusted for depreciation and can be significantly less than the replacement cost for an older building.
- *Building Ordinance or Law.* Some communities specify by ordinance that any undamaged portion of a damaged building must be demolished prior to reconstruction. But demolition costs and the cost of replacing the undamaged portion may not be covered by property insurance. Changes in building codes over a period of time may increase the replacement cost of a building beyond its insured value. Building Ordinance or Law endorsements provide coverage for these situations.
- *Agreed Value or Agreed Amount.* The policyholder and the insurance company agree on the value of the property before the policy is written. With this endorsement, the possibility of a coinsurance penalty is removed, even if the property is underinsured.
- *Inflation Guard.* This is an endorsement that increases coverage limits for your property, annually and automatically, to keep pace with inflation.

COMMERCIAL CRIME INSURANCE

One has only to read the local newspaper to realize that businesses are regularly confronted with crime—and many find themselves the victim of their own employees! A variety of *Commercial Crime Insurance* is available for protection against theft, robbery, burglary, forgery, embezzlement, etc. Ask your insurance agent for help in answering these questions:

- Do you need to insure against burglary of cash, checks, securities, or valuable papers, or against employee theft?
- If you have employees who handle money, should you insure against embezzlement?
- Do you need to be insured for the possibility that an employee may steal property from the premises of a customer?
- Do you need coverage for yourself or employees who might be robbed at the facility or en route to the bank to make a business deposit?

$250,000 in herbicides stolen from farm co-op

By Amy Higgins

11th theft of supplies hits co-op

Herbicides being targeted

Endorsements

- *Employee Dishonesty.* This coverage protects the employer from theft of money, securities, or property by an employee. The insurance company can step in, investigate aggressively, and prosecute. If the employer provides a qualified retirement plan, another form of employee dishonesty coverage is required under the Employee Retirement Income Security Act: An employer must carry an Employee Dishonesty limit of at least 10 percent of the total assets of the retirement plan. But what if an employee steals from a customer? Employee Dishonesty coverage does not cover such a loss because the employer is not the target of the theft. However, certain types of surety bonds might apply. Coverage can be very expensive, so if you feel that you cannot rely on your own internal procedures and controls, ask your insurance agent for advice on how to proceed.

- *Depositor's Forgery or Alteration.* Forgery is the generation of a document or signature that is not genuine. Conversely, Alteration is changing a document in a manner that is neither authorized nor intended by the insured. The loss to the policyholder is covered when forged or altered documents (checks, drafts, promissory notes, bills of exchange, etc.) are used to withdraw money from the insured's account.

- *Theft, Disappearance, and Destruction.* Theft is any act of stealing; Disappearance is an unknown cause of loss; and Destruction is the loss of certain property. Disappearance lacks the element of knowing whether the disappearance resulted from theft, burglary, or robbery, or if the missing property is simply misplaced. Disappearance insurance is the broadest form of coverage available for money and securities.

- *Robbery and Safe Burglary.* Robbery includes an element of threat of personal harm in taking away someone's property. Safe burglary is the taking of property from a safe, where there are visible signs of forced entry and where no other persons are present.

COMMERCIAL VEHICLE INSURANCE

The consequences of vehicular accidents are among the most frequent and potentially severe situations that business owners must insure themselves against. And, whether you own one truck or a whole fleet, your business is at risk. Each accident—whether it's a fender bender with no injuries, whether someone is permanently disabled, or whether someone is killed—carries the potential for serious consequences. *Vehicle Insurance* may cover vehicle repairs or replacement, bodily injury to persons in your vehicles or others' involved, and representation in the event of a lawsuit. But it is essential that you ascertain

- exactly which vehicles are covered,
- the type and amount of coverage,
- who may drive the insured vehicles, and
- the beginning and ending dates of coverage.

Offer safe driving programs for employees. Teach drivers to get as much information as possible when involved in a vehicular accident, and teach them to spot fraud. Be especially watchful for "swoop and squat" insurance fraud where a driver intentionally cuts in front of your vehicle and slams on the brakes, causing your vehicle to hit his in the rear.

Photos courtesy of the
Michigan Department of Agriculture

Physical Damage

This part of your vehicle insurance policy explains the conditions under which vehicles damaged in an accident will be repaired or replaced. There are two types of coverage for physical damage: *collision* and *comprehensive.*

- *Collision* coverage ensures that your vehicles will be repaired or replaced if involved in an accident. It pays no matter who is at fault, but only up to the actual cash value of the vehicle at the time of the accident. In some cases, if your vehicle is nearly new and is financed, insurers will extend coverage to include the difference between the actual cash value and the balance on your loan. Collision coverage is subject to a prescribed deductible.
- *Comprehensive* insurance provides coverage for vehicle damage from situations other than collision (fire, theft, vandalism, wind, floods, etc.). Comprehensive coverage is subject to a prescribed deductible and may include reimbursement for transportation expenses (e.g., rental cars) incurred while a vehicle is being repaired or replaced; it also may cover towing and labor expenses.

Liability Coverage

How does vehicle insurance protect your business when injured persons file claims against it? Under vehicle coverage, the insurer agrees to defend the policyholder and to pay all legal defense costs and resulting judgments arising from the ownership, maintenance, or use of a vehicle covered by the policy. Attorney and other defense fees are payable in addition to the policy limits.

Ask your insurance agent the following questions:

- *If I am driving and have an accident involving another vehicle, whose policy pays my medical bills and/or those of my passenger?*
- *If my vehicle is stolen while my friend's computer is in the trunk, whose insurance covers the loss of the computer? What if it is my wife's computer?*
- *If I am hauling a trailer, and the trailer comes loose and damages other vehicles, whose insurance pays for damage to those vehicles and damage to the trailer? What if my vehicle is insured but my trailer isn't? What if the trailer belongs to a friend?*
- *What if I fail to list a titled or leased business vehicle on my policy? If the unlisted vehicle incurs or causes damage, will my policy pay?*

Expect to be asked the following questions by your insurance agent:

- *Do your employees use their own vehicles during the course of their work?* If so, a *Hired and Non-Owned Auto Liability* endorsement *must* be included on your general liability policy. *Always. No exceptions—even if your business does not own any vehicles.* An employee's private vehicle policy may not protect your business if it is named in a lawsuit, so make sure you carry this coverage.

• *Do you transport chemicals in or on your vehicle?* If so, be aware that your vehicle policy may not cover a pollution claim nor provide clean-up coverage. These incidents can be covered through special endorsements or pollution coverage under special general liability policies.

Endorsements

• *Rental Reimbursement.* Rental reimbursement pays the cost of renting a substitute vehicle while the damaged vehicle is being repaired or replaced, or after a vehicle is stolen.

• *Broad Form Drive-Other-Car Coverage.* This endorsement provides personal vehicle liability coverage for business owners or specified employees who do not own or drive a personal vehicle other than the company-provided vehicle. Under this endorsement, the commercial vehicle policy provides personal vehicle liability coverage in situations where the specified driver is involved in a non-work-related accident while driving any vehicle other than a company-provided vehicle.

• *Towing and Labor.* Coverage for towing and labor pays towing charges up to the limit selected, each time a covered vehicle needs such services.

• *Personal Injury Protection (PIP) or Medical Payments.* PIP also is known as "no-fault insurance." It is available at various optional limits to pay for the medical care of persons injured in a covered vehicle, regardless whether the policyholder is liable.

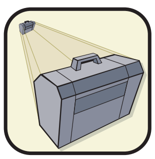
In addition to medical coverage, PIP provides reimbursement for loss of earnings, for additional living expenses, for funeral costs for pedestrians, and for occupants of the policyholder's vehicle other than those covered under other policies. No-fault vehicle insurance is designed to compensate victims of vehicular accidents without the necessity of proving negligence on the part of those involved.

• *Uninsured/Underinsured Motorist.* This provides protection for the policyholder and passengers against bodily injury caused by the negligence of an uninsured or underinsured motorist. Instances where such protection becomes important include a hit-and-run accident, an insolvent insurer, and an insurer that denies coverage to such other motorists.

Schedule of Coverage

The business vehicle policy contains a schedule (list) of the aforementioned types of coverage and specifies the vehicles to which they apply. These specifications appear as numeric symbols that can affect coverage significantly; therefore they should be reviewed carefully. Symbol “1” refers to “any vehicle.” If it appears next to a particular coverage, it means that any vehicle you drive is covered, regardless who owns it or whether it is listed on the schedule. Symbol “7” refers to “scheduled vehicles,” limiting coverage to only those vehicles that appear on the schedule; a vehicle inadvertently left off the schedule, or a new vehicle that has not yet been added, may not be covered.

INLAND MARINE FLOATER



Someone breaks into your locked tool box inside your truck and walks away with all of your tools and equipment. You ask your insurance agent if the stolen property is covered, and he indicates that it is covered by a policy known as an *Inland Marine Floater* which is used to protect tools and equipment (in this case) but only if there are signs of forced entry on the vehicle.

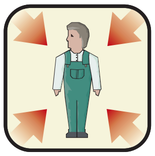
The Inland Marine Floater typicaly covers property that is mobile. Equipment that is moved from site to site is one example. Other inland marine examples are valuable papers and specialized personal property such as computer equipment. Ask your insurance agent for help in answering the following questions:

- Should I insure all of my equipment against theft?
- Do I have to schedule (list) every piece of equipment that I want covered by the insurance policy?
- Does an inland marine policy cover the replacement cost of stolen equipment, or only the depreciated value at the time it is stolen?
- Do I need to cover accounts receivable in case records are stolen or damaged and cannot be reconstructed?
- What deductible should I carry per piece of equipment, and per aggregate loss?
- If several pieces of property are stolen at one time, will I have to pay a deductible on each item?

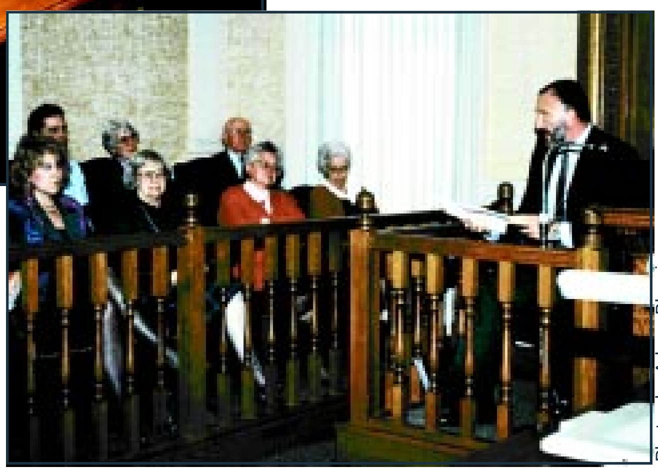
Equipment Endorsements

- *Equipment Floater.* This coverage protects your equipment or tools on the business premises, in transit, at job sites, and even at your employees' homes. These tools and equipment may be scheduled, or they may be covered on a blanket basis. It generally is less expensive to schedule them, although additional effort is required to maintain a current schedule. The equipment floater can be endorsed to automatically cover items that you rent or lease temporarily, or you may choose Rental Reimbursement coverage to assume the expense of temporary rentals for use until a damaged or lost item is replaced.
- *Installation Floater.* This coverage protects materials and supplies that are in transit or at job sites: things such as seed, chemicals, trees, shrubs, landscaping materials, etc.
- *Electronic Data Processing (EDP).* This coverage provides broad protection for computer equipment, data, and media, and it can include coverage for mechanical breakdown and electronic erasure. Coverage applies both on and off the business premises, and in transit.
- *Accounts Receivable.* This covers the policyholder's inability to collect accounts receivable balances when records are destroyed by a covered peril such as fire. It is difficult to determine the actual dollar amount of losses where records are destroyed, so the insurance adjuster will compute the loss based on prior years' income. An accounts receivable policy is written with a limit sufficient to compensate the insured for catastrophic loss, usually covering the following:
  - ∞ Accounts receivable which are uncollectible if records cannot be reestablished
  - ∞ Expenses incurred by the policyholder in reestablishing records of accounts receivable following loss or damage
  - ∞ Collection expenses in excess of customary expenses, made necessary because of a loss
  - ∞ Interest charges on interim loans (from time of loss until reimbursement is received)
- *Valuable Papers and Records.* This covers direct physical loss of valuable papers and records owned by the policyholder. The definition of *valuable papers* is broad. It includes documents and records such as books, maps, films, drawings, abstracts, deeds, mortgages, and manuscripts. The term *valuable papers* does not include money and securities.

COMPREHENSIVE GENERAL LIABILITY INSURANCE



Although being sued is a possibility that all businesses face, pesticide application companies are particularly vulnerable. Dealing effectively with lawsuits resulting from real or alleged negligence requires experience, expert handling of claims, and expert legal advice. Suits may be filed for various reasons: property damage; bodily injury; failure to control pests; pesticide exposure from applications, spills, drift, etc. That's not to say that all lawsuits have merit, but going to court—win, lose, or draw—costs you in terms of time, attorney fees, and a multitude of related expenses. Liability resulting from vehicular accidents is not covered by *General Liability Insurance;* only a vehicle policy covers liability arising from situations involving "covered vehicles."



Photos by Arlene Blessing

If you are held legally responsible by a court of law for bodily injury or property damage due to negligence, it is your General Liability policy that pays. The insurance company must defend any claim (or portion thereof) asserted against the policyholder that falls within the policy's scope of coverage. Claims often are settled out of court to avoid expensive litigation.

With so much at stake, it is not surprising that most owners of pesticide application companies are willing to purchase General Liability Insurance. In fact, they would likely purchase unlimited liability coverage, if available, but insurance companies offer only limited protection. This inherent conflict between the policyholder and the insurer necessitates careful scrutiny of policy language.

Most General Liability policies are written on an *Occurrence* form, which means that the act or condition giving rise to liability must take place within the policy year; but many times a business owner is unaware of a claim until long after his policy has expired. Under the *Occurrence* form, however, a situation may be covered even if not discovered and reported until after the applicable policy has expired. Therefore it is important to keep expired policies in a safe place, permanently; they can be recalled to pay claims presented well after their expiration date.

The other general liability form available is a Claims Made form. Unlike the Occurrence form, it requires that claims must occur *and* be reported during the active policy period. The *Claims Made* form is commonly used for specialty liability coverage such as *Errors and Omissions,* but pesticide application companies should avoid it. Significant coverage or claims reporting gaps may occur when switching from an *Occurrence* to a *Claims Made* policy.

Key areas that should be reviewed in General Liability Insurance are

- policy limits,
- deductibles,
- rating basis,
- exclusions, and
- endorsements.

Policy Limits

General Aggregate

The *General Aggregate* (total) is the most the insurance company will pay for all combined claims within the policy year—except products and completed operations claims, which have separate annual aggregate limits.

Products and Completed Operations Aggregate

The *Products and Completed Operations Aggregate* is a separate, annual aggregate which applies to products and completed operations claims. “Products” generally refers to something that the policyholder sells or manufacturers—something used by others, either in whole or as part of something else used by others. “Completed Operations” is the insurance term that most accurately applies to pesticide applications. Applications, inspections, and other integrated pest management activities or services, once completed, and where the insured has left the serviced premises of the customer, fall under this Completed Operations Aggregate.

Personal and Advertising Injury

Personal and Advertising Injury is a separate limit of coverage for certain types of claims such as libel, slander, false arrest, invasion of privacy, advertising, etc.

Each Occurrence

The dollar amount specified under *Each Occurrence* is the limit of coverage for each single claim or occurrence of loss.

Fire Damage Limit

If the portion of the premises that you lease is damaged by fire, and if you are liable, the *Fire Damage Limit* applies; the limit applies to each fire, and the general aggregate limit applies.

Medical Payments

The *Medical Payments* limit applies, per person, and pays regardless of legal liability on the part of the policyholder. The general aggregate limit applies.

Deductibles

Deductibles are used in General Liability policies to curb the filing of small claims (<$1,000). They may apply only to bodily injury, only to property damage, or to both types of loss combined. Deductibles may apply per claim or per occurrence. Insurance companies adjust and pay all claims, after which the policyholder is obligated to reimburse the insurance company up to the deductible limit.

Rating Basis

The premium for General Liability policies is based on the policyholder's total sales receipts or payroll for a given activity. Specific rates—usually per $100 or $1,000—may apply to revenue or payroll for professional activities such as landscaping, lawncare, snow removal, and tree pruning. Payroll and sales figures are estimated annually for the upcoming policy year. The insurance company conducts an audit of actual claims at the end of the policy year to determine the premium due *from* the policyholder or the refund due *to* the policyholder.

Exclusions

- *Pollution*. Most liability policies, and many property insurance policies, contain a broadly worded pollution exclusion (see page 31).
- *Care, Custody, or Control*. This exclusion can be particularly troublesome because most policyholders are unaware of its existence. It may not cover damage to the real or personal property of others which is under your care, custody, or control. In other words,

unintentional damage that you may cause to others' property during your course of work may not be covered. An example is the application of the wrong chemical to a customer's lawn. The lawn may be considered under your care, custody, or control and excluded from coverage. However, damage to adjacent property which is not under your care, custody, or control usually is covered. The Care, Custody, or Control exclusion is subject to interpretation. Some insurance companies offer coverage for property under your care, custody, or control at an additional premium—and usually with a reduced limit. Be sure to check with your insurance agent about the availability of Care, Custody, or Control coverage.

- *Professional Services.* This exclusion normally applies when engineering, architectural, financial, inspection, and other professional services are offered by the policyholder. This is a key exclusion for operators who conduct termite inspections for real estate transactions, act as consultants, perform radon testing, etc.

Endorsements

- *Herbicide and Pesticide Applicator Coverage.* This endorsement modifies the pollution exclusion under the General Liability policy by deleting a portion of the pollution exclusion to provide coverage at a job site.
- *Product Misdelivery.* This endorsement provides coverage when a product or chemical has been applied to the wrong premise.
- *Per Project/Location General Aggregate.* The General Aggregate limit in the General Liability policy specifies the limit available for all claims for an entire policy year. Any general liability claim during the policy year (other than product and completed operations claims) reduces the general aggregate limit available for additional claims within the policy year. This endorsement reinstates the full aggregate limit after each claim so that additional claims within the policy year are covered for the full amount. "Per occurrence" limits do apply.

WORKER'S COMPENSATION INSURANCE

Hundreds of workers are injured on the job each day. Many sustain disabling injuries that prevent them from ever returning to work. States mandate that employers carry a reasonable amount of insurance to partially compensate workers injured on the job. We refer to it as "Worker's Comp," short for *Worker's Compensation.*

Worker's Compensation premiums are based on rates per $100 of covered business payroll. The National Council for Compensation Insurance publishes an Experience Modification Factor (EMF) for most businesses. Each business earns its own EMF based on its Worker's Compensation loss experience during the applicable three-year rating period. The EMF may change each year and is applied directly to your premium as either a debit or a credit. Excellent loss experience results in an EMF that can dramatically reduce your Worker's Compensation premium; conversely, poor loss experience results in an increased premium. Safety in the workplace protects employees and reduces Worker's Compensation premiums for the employer. It should be promoted diligently.

Worker's Compensation laws vary by state, depending on the types of employees covered, the types of injuries covered, benefit limits, and who is required to carry the insurance. All states include some form of "exclusive remedy" provision to prevent employees from suing their employer when Worker's Compensation coverage is applicable.

Employers who do not provide Worker's Compensation coverage are in violation of the law and may be subject to lawsuits, penalties, and fines. Your insurance agent can describe Worker's Compensation provisions in your state.

Because Worker's Compensation laws differ by state, premiums also vary. All states approve rates for each occupation (salesperson, clerical employee, applicator, landscape gardener, etc.) and insurance companies apply those rates to estimated payroll. Premium discounts apply to policies with premiums of $5,000 or more per year.

Worker's Compensation policies pay prescribed benefits for the cost of medical care, as well as a percentage of lost wages during the period of disability.

- Medical bills are paid, up to state prescribed limits.
- An injury may result in a worker's becoming disabled and missing work for an extended period of time. Worker's Compensation provides an insurance benefit to the injured employee, generally up to 66 2/3 percent of their average weekly wage, subject to a state mandated benefit limit. Ask your insurance agent for assistance in answering the following questions:
    - ∞ Is there coverage when one employee injures another employee?
    - ∞ What is covered by the employer's liability section of the Worker's Compensation policy?
    - ∞ Which classification is used for payroll determination if an employee is doing more than one job, such as sales and service work?
    - ∞ If you hire non-employees as independent contractors and they are injured while doing work for you, are they covered by your Worker's Compensation policy? What if they are injured while doing work for themselves or others, and no other Worker's Compensation policy exists? Will your policy cover them?
    - ∞ If your company does work in more than one state, are your employees and subcontractors covered under your Worker's Compensation policy for injuries suffered out-of-state if the state is not listed on your policy?
    - ∞ Are the benefits for employee injuries the same in another state?
    - ∞ How does the insurance company or a court of law determine whether a person is your employee or an independent contractor? Are there any legal regulations that apply in determining who is an employee?
    - ∞ Does your Worker's Compensation policy cover stress on the job? Does it cover long-term carpal tunnel syndrome? Does it cover claims other than for physical injury?

FOLLOWING FORM EXCESS OR UMBRELLA COVERAGE

The *Umbrella* policy provides supplemental liability insurance for a nominal premium increase. Its limits apply after primary insurance limits have been reached. The umbrella policy usually provides limits in excess of the underlying General Liability, Vehicle Liability, and Employer Liability policies (under Worker's Compensation). Umbrella policies also may offer coverage for hazards not addressed in the policyholder's underlying liability policies.

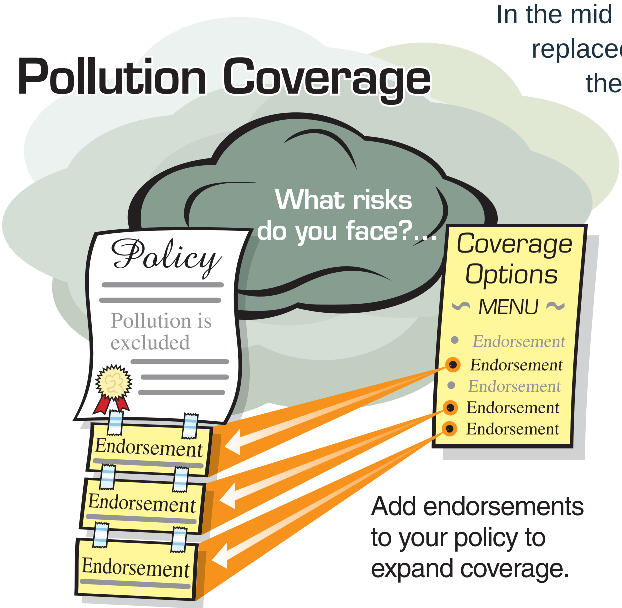
Michigan Department of Agriculture

Excess liability policies are issued either as *Following Form Excess,* or *Umbrella.* Policies issued as Following Form Excess provide the same coverage and conditions as those contained in applicable underlying policies. An Umbrella policy may provide broader or narrower coverage than those provided by applicable underlying policies. Ask your insurance agent for assistance in answering the following questions:

- What primary coverage is the Excess or Umbrella policy designed to cover?
- What minimum limits must be stipulated in the underlying liability policies to secure Excess or Umbrella coverage?
- Must a deductible or self-insured retention amount be satisfied on the underlying policies before the Excess or Umbrella coverage kicks in?
- How do I know whether I have purchased a Following Form Excess policy or an Umbrella policy?
- Should the effective dates of the underlying policies and the Excess or Umbrella policy be the same?
- Is there an advantage to buying my Excess or Umbrella policy from the same insurance company that provides my underlying liability policies?
- What is the primary reason for purchasing additional liability insurance provided by Excess or Umbrella policies?
- What kind of loss is most likely expected to exceed the primary liability limits?

Virtually all commercial property and liability policies contain a pollution exclusion. Prior to 1986, the standard General Liability form covered pollution claims for "sudden and accidental" incidents.

Some state supreme courts have held that "sudden and accidental" means "unexpected and unintended." Under this interpretation gradual contamination such as that caused by pesticide leakage, over time, would be covered unless it was somehow expected or intended. Other state courts have ruled that the term "sudden" describes a single incident.



In the mid 1980s, the insurance industry largely replaced the sudden and accidental exclusion with the broadly worded "absolute" pollution exclusion. The term "pollutant" in the absolute exclusion is defined as "any solid, liquid, gaseous, or thermal irritant or contaminant, including smoke, vapor, soot, fumes, acids, alkalis, chemicals, and waste." The exclusion eliminates coverage for any "loss or damage caused by or resulting from the discharge, dispersal, seepage, migration, release, or escape of pollutants." This broad wording has prompted many courts to conclude that the literal interpretation excludes coverage for virtually any routine business mishap that an ordinary person would not call "pollution" even though it may involve chemicals. And since pesticide application businesses routinely store, transport, and use pesticides, fertilizers, and fuels, they are essentially uninsured for pollution, as defined: They lie vulnerable to uninsured risk!

Insurance company denials of chemical-related insurance claims, based on pollution exclusions, have spawned a tremendous amount of litigation. Some claims involve damage to the environment, such as soil or ground water contamination. Others involve alleged bodily injury or property damage arising from exposure to noxious fumes or chemicals. Policyholders argue that the policy language is ambiguous and must be construed in favor of the insured. Insurance companies argue that the exclusion must be interpreted literally. The rules of insurance policy interpretation vary considerably from state to state, hence the outcome of these lawsuits varies. Many courts have ordered insurance companies to provide coverage for chemical-related claims despite the pollution exclusion; other courts have denied coverage. Pesticide application businesses should stay informed of legal developments on this issue in states where their offices are located and/or where they do business.

Controversy over the scope of the pollution exclusion subjects policyholders to considerable uncertainty and delay. And even when they prevail in court, their defense costs alone can be substantial.

Some insurance companies now offer specialized pollution coverage. But, as with any policy provision or endorsement, policyholders must read the fine print to make sure that the coverage they intended to purchase is not removed by exclusion. The fine print also may impose requirements such as immediate reporting of a loss to the insurance company as a prerequisite to coverage. It is advisable to hire an attorney who represents policyholders in coverage disputes to review the intricate wording of your pollution coverage provisions.

Pesticide contamination claims can originate

- at the site of application,
- in transit,
- in storage,
- from pesticide spills (remediation or cleanup costs),
- at the site of cleanup (bodily injury or property damage),
- at pesticide and container disposal sites, and
- during product manufacturing, and formulation.

It is critical for business owners to consult with their insurance company and private counsel for definitions of exactly what their general and specialized policies cover, as well as the coverage limits. For instance, pollution coverage is of very limited help if it covers only a fraction of the cleanup cost following an incident. It also is important to determine the *conditions* under which the insurance company will pay for contamination cleanup.

Consider putting the following questions in writing to your insurance agent to start the review process. More than likely, your inquiry will be forwarded to and answered by your insurance company's legal department. In your letter to the agent, request that all responses be put in writing, then take the written responses and the policy to your attorney for an interpretation of what the policy covers—and what it does not.

Will my insurance policy pay for investigation, assessment, remedial action, litigation, and fines under the following scenarios? If so, how much and under what conditions?

Example: A fire breaks out in the building where I store pesticides and fertilizers. The fire department extinguishes the fire with water, resulting in soil contamination to my property and to neighboring properties.

Example: My truck overturns, releasing pesticides onto the roadway. Runoff from the spill reaches a nearby creek, resulting in a fish kill.

Will my insurance pay to replace lost equipment, supplies, contents, and the building under the following scenario?

Example: A fire breaks out in the warehouse where I store pesticides, fertilizers, trucks, and other equipment used in my business. I call the fire department and they quickly arrive at the scene. Their first reaction is to extinguish the fire, but in my emergency plan I have informed them not to put water on the fire unless it is absolutely necessary. The fire chief decides to let the building burn since the smoke does not pose a risk to nearby neighbors.

Does the pollution exclusion on my policy disallow coverage when a worker or by-stander inhales or otherwise contacts and is injured by chemicals in association with my business operations?

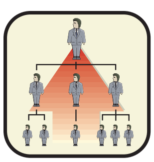
Are the coverage limits adequate to address the financial risks that my business faces?

EMPLOYMENT PRACTICES LIABILITY INSURANCE

Employment Practices Liability policies are designed to protect the employer when an employee files a complaint or sues for alleged acts of sexual harassment, failure to hire or promote, wrongful termination, discrimination, etc. Thousands of such cases are backlogged in federal agencies and courts, each awaiting an appropriate response or investigation. New rulings continually redefine what constitutes sexual harassment and job discrimination, both of which pose real liability problems for employers. Be sure to ask your insurance agent about programs and resources that you can implement to reduce premiums.

This is an example of inappropriate behavior that could be construed as sexual harassment in the workplace.

DIRECTORS AND OFFICERS LIABILITY INSURANCE



Directors and Officers Liability coverage protects the pest control company's directors and officers in lawsuits alleging errors or omissions related to poor management decisions that result in financial loss to the business. Lawsuits against directors and officers can be filed by employees, competitors, government entities, investors, and others.

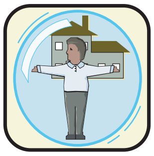
Arlene Blessing

ERRORS AND OMISSIONS LIABILITY INSURANCE

Remember, the typical General Liability policy only covers liability resulting in property damage or bodily injury to others; it does not cover claims resulting from a monetary loss to third parties if, as an example, improper advice is offered. The General Liability policy also contains a Professional Services exclusion.

These two conditions create the need for coverage that responds to professional services other than bodily injury and property damage. Such coverage is known as *Errors and Omissions Liability,* and it is essential for pesticide application operations that provide inspection or consulting services. Without it, claims resulting from inaccurate assessment on the existence of termites, for example, are not covered. Errors and Omissions is specialized coverage that may not be available from a standard insurance company. Discuss your need for Errors and Omissions Liability coverage with your insurance agent.

HOLD HARMLESS INSURANCE



Some contracts require the contractor to hold the customer harmless for any claims arising from work at the customer's premises. Before signing such a contract, check with your agent, because the insurance company may require copies of any such agreements between the policyholder and its customers. Those agreements may claim to commit the insurance company to cover risks they will not cover and which are not covered by the policy.

Keep in mind that insurance companies are not automatically bound by agreements that you make with others; so never assume liability that your policy will not cover. Speak with your insurance agent before entering into any agreements. Some insurance carriers require an additional premium for *Hold Harmless Insurance.* Ask your insurance agent the following questions:

- Should I speak with you to confirm that I have adequate coverage before signing any agreement?
- What is the difference between a customer's (or prospective customer's) asking for a Certificate of Insurance and her asking to be named as an additional insured on my policy?
- Do you need to review the actual contract under which I am asked to provide a Certificate of Insurance?

DOUBLE-CHECKING YOUR INSURANCE POLICY

When your insurance agent delivers your policy, make sure that its specifications match the application you filled out as well as those in the agent's proposal. The following checklist is helpful in checking key points.

✎ Declarations

Yes No Is the policy term (beginning date/ending date) correct?

Yes No Is the name of the policyholder spelled correctly?

Yes No Is the name on the policy exactly the same as the legal name of the business?

Yes No If you own, rent, or lease at more than one location, are the names and addresses of all branches and locations spelled correctly on the policy?

Yes No Is the type of legal entity (e.g., sole proprietor, partnership, or corporation) stated correctly?

Yes No Are the types of coverage agreed to in the agent's proposal indicated on the policy?

Yes No Are the premiums exactly those quoted by your agent during policy procurement?

Yes No Do you feel comfortable that the limits per occurrence will cover your worst case scenario?

Yes No Are all of the endorsements listed on the Declarations page attached to the policy?

Yes No Do the types and amounts of coverage meet the requirements of your customers and state agencies?

✎ Property

Yes No Do you have "special form" perils covered?

Yes No Is your property insured to its current value? At what percentage?

Yes No Does your policy cover replacement cost instead of actual cash value?

✎ Inland Marine Floater

Yes No Do you have an Inland Marine Floater for equipment leaving the business premises?

Yes No Do you have an Inland Marine Floater for computer equipment?

Yes No Is every piece of equipment (that you want to insure) scheduled on the equipment floater?

Yes No Are equipment values accurate and up-to-date?

Yes No Have you purchased replacement-cost coverage for your equipment and tools?

✎ Crime Coverage

Yes No Do you have employee dishonesty coverage?

Yes No Do you have insurance to cover the theft of money and securities, both on and off your property?

Yes No Do you have a qualified pension plan such as a 401K? If so, is your employee dishonesty coverage adequate to meet the legal requirements?

✎ General Liability

Yes No If you damage the property that you are working on, will your insurance cover it? If so, how much will it pay? If not, is there coverage available that will compensate for the care, custody, or control exclusion?

Yes No Are your gross receipts and payroll stated correctly?

Yes No Is yours an Occurrence Form policy?

Yes No Are your deductibles *per occurrence* rather than *per claim?* For instance, if 25 people in an office complex say they were sickened by your application and each went to see their physician, you would face 25 *claims;* in this situation, a *per claim* deductible would apply for *each* of those 25 claims. In the same situation, a *per occurrence* deductible would apply only once.

Yes No Are your gross receipts within 10 percent of what is reasonably expected? Check this carefully because an audit that reveals higher gross receipts would indicate that you had underpaid the previous policy. You would be required to pay the premium audit bill along with higher premiums to extend the coverage for a year.

Yes No Is an Umbrella policy available? At what price?

✎ Vehicle

Yes No Do the serial numbers for each vehicle appear exactly correct on the vehicle schedule page?

Yes No Do you have a policy that automatically provides coverage for new vehicles as they are added to your business?

Yes No Do you really want comprehensive and collision coverage for all vehicles owned by the business (symbol 2 in the vehicle policy)? Older vehicles may not be worth insuring for collision.

Yes No Are the gross vehicle weights listed correctly? The heavier the truck, the more damage it creates when it is involved in an accident.

Yes No Are the use designations—commercial, service, personal—correct?

Yes No Is the work area radius correct for each vehicle? These are local (within 50 miles), intermediate (50–200 miles), and long haul (greater than 200 miles).

Yes No Have you included the value of permanently attached equipment as part of the vehicle value?

✎ Worker's Compensation

Yes No Are the payroll estimates within 10 percent of the projections?

Yes No Are the job classifications correct?

Yes No Is your experience modification factor correct?

✎ Exclusions

Yes No Does an exclusion take away coverage for a substantial risk that your business faces? If so, contact the insurance agent to discuss whether an endorsement is available, affordable, and/or appropriate.

✎ Endorsements

Yes No Do you understand endorsement changes? If not, contact your insurance agent for clarification.

✎ Insurance Services Office (ISO) Forms

Yes No Are any forms used in your policies not copyrighted by ISO? If yes, ask the agent for specifics as to why the insurer used their own forms in lieu of the industry-standard ISO forms.

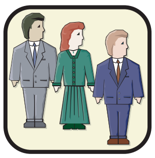
THE INSURANCE AGENT: A VALUABLE ADVISOR

The insurance agent may wear one of two hats. Depending on whether he is talking to a prospect or to a customer, he may go from *salesperson* (able to close a sale) to *serviceperson* (able to provide customers with objective advice on insurance companies and coverage). Some agents are better at sales than at service, and vice-versa. The policyholder's goal is to find the best insurance *professional*—and it's not easy. Ideally, your agent will assume a risk management role, helping you to identify risks, eliminate some, and choose the best way to address those remaining.

Hopefully, your insurance agent will guide you in making decisions regarding the types of coverage that you need; certainly, he or she should be working in your best interest. You should choose to insure your pesticide application business with special coverage, due to the nature of the risks you face. An informed agent will discuss the risks common to your business, advise you as to the coverage available to protect against those risks, and possess the expertise to assist you in settling claims.

It is important to understand that insurance agents can be influenced by considerations that differ from—even conflict with—your long-term best interest: their commission rates, for example. Therefore it is important to evaluate the insurance products that your agent recommends and, sometimes, to get a second opinion. A good agent will ask numerous questions about your business in order to align your needs with the best products available. His or her analysis on what risks to insure and at what cost should guide your decision-making process.

Develop a List of Insurance Agents



Being a professional insurance agent entails much more than passing a state insurance examination and hanging a shingle. For certain, it's more than handing out business cards with catchy slogans; running slick advertisements on television, radio and in print; and quoting lower prices than the competition.

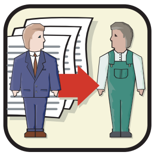
Ask owners of similar businesses in your area where they purchase their insurance; if a couple of names surface repeatedly, chances are those individuals are good at what they do. Make appointments to speak with them, individually, and get a feel for their desire to handle your account.

Local, state, and national trade associations may generate a list of insurance agents and/or companies that cater to pesticide application businesses. When you attend association meetings, sit down with vendors who exhibit their insurance products and services. If you find them knowledgeable and easy to talk with, make an appointment to discuss your specific needs.

Ask each agent the following questions:

- How many years have you been writing commercial insurance for businesses like mine?
- How long has your agency been in business?
- Would you provide a telephone list of pesticide application businesses that you currently insure? May I call them?
- What is the claims history of the insurance companies you represent with businesses like mine, i.e., what are the types of claims that I might file?
- Would you furnish the name of someone who has recently filed a claim with you or your insurance company? May I call them to see how the claims were handled?
- Have you exhibited at any of our state, regional, or national workshops and conferences in the last two years?
- May I see your current state insurance license?
- Have you attained any other professional designations (e.g., Chartered Property and Casualty Underwriter or Certified Insurance Counselor) beyond the state license?

Gather Key Underwriting Information

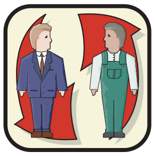


Select one agent to set up the completed insurance application by type of coverage: General Liability, Vehicle, Worker's Compensation, and Property. Ask her to establish a proposal outline or bid specification sheet that other agents may use when submitting proposals. Some agents charge for this service, but the cost is justified by the simplicity of proposal comparison among various insurance companies. Once a format is developed, annual updates can be accomplished with minimal effort.

Call the agent who will develop the outline and ask for a written list of information that he or she will need. Based on the list, establish a format to use with all companies from which you solicit proposals. Following are some items that most companies request.

- Replacement value of buildings and contents at each location
- A description of each building: construction type, occupancy, year built, and square footage. A description of what each building is used for; the town protection class of each building (sprinkler system, distance from hydrants, response time based on proximity to fire department), and the type and proximity of neighboring businesses
- Equipment inventory: description; serial number; model number; and current replacement cost
- A schedule of all licensed vehicles: makes and models; what they cost new; current motor vehicle reports (MVR), if available (insurance companies generally can supply them free of charge); uses; and radius of operation
- A list of authorized drivers: full name; date of birth; driver's license number and state of issue
- Payroll and sales estimates for the upcoming policy year for each operation, e.g., lawn care, mowing and maintenance, mower repairs, landscaping, snow removal, termite work
- Brochures or other documentation that describes your company
- Copies of written safety programs and a description of safety devices in place
- A detailed claims report for each insurance policy held over the past five years, prepared by your current and past insurance carriers

Use the Outline to Evaluate Insurance Products



Send the outline to the agents on your list at least 60 days prior to the expiration date of existing coverage. Although agents may be generally knowledgeable of the pest control industry, there is no way they can know the specifics of your operations. Discuss your insurance needs with them and use your proposal outline or bid specifications to provide the details they need. The more the agents know about your situation, the better they can serve your needs.

Conversations between you and the insurance agents you have selected should not be one-sided. You should provide as much information as possible on your business operations; and the agents should make you aware of all pertinent insurance coverage available in the marketplace. Ask the agents to evaluate your current coverage and offer insight into how you might decrease premiums, e.g., by reducing policy overlap or by increasing deductibles. Ask for an evaluation of your total insurance portfolio to make sure that there are no gaps in coverage; if gaps exist, additional coverage may be required. The agents should provide specific recommendations for improving your insurance program—not just duplicate current coverage.

Michigan Department of Agriculture

Presentation of a Proposal

Agents are unable to provide formal premium quotes at your first meeting. They usually do not have underwriting authority and must submit their paperwork to their company for risk evaluation. Their underwriters review the information and determine whether the insurance company is willing to insure your business, and at what cost.

The underwriter reviews your documentation as submitted to him by the insurance agent. The underwriter will consider prior insurance claims, quality of management, type of operation performed, and business safeguards in place—safety plans, vehicle and physical inspections, sprinkler systems, fire extinguishers, training programs, etc.—in his final proposal to the agent.

The quotation process may take 30 days. Most proposals are typed outlines detailing the types of coverage offered: limits, deductibles, coverage, rates, and premiums. The agents should discuss with you the details of their proposals. For instance, she may point out that a property quote is based on a limit of $200,000 on the building and $50,000 on its contents, each with a $1000 deductible.

The agents should reveal each insurer's financial rating. *A.M. Best* is one firm that rates the financial strength of insurance companies; try to purchase coverage with an A.M. Best rating of A- or better, and confirm that they are licensed in the states in which your business operates.

Ask the agents to deliver along with their proposals a specimen copy of the proposed general liability policy, including any limitations or endorsements that will be attached to the policy at issuance. Insurance agents should explain all exclusions that are written into each policy and should answer any questions that you have. They should identify all coverage gaps that exist in the proposed insurance program and offer you secondary coverage, if available; whether or not to cover the gaps is up to you.

Require—not request—your agent to provide a proposal, including premium quotes, no later than 14 days prior to the expiration date of your existing policies. Some agents will agree to do so, then fail to deliver; they may ultimately provide a quote only one or two days prior to your policy expiration date so that you don't have adequate time to compare their coverage and premiums with those of other companies. Be fair with agents and respect the time that they devote to your insurance needs. But impress upon them that you *require* time to contemplate various companies' proposals and ask questions that they provoke. Make it clear that you *will not* accept bids submitted after the 14-day deadline. Reputable insurance agents will be happy to oblige.

You *must* compare quotes, but it is impossible to do so unless you provide each company with identical information. It is especially important to verify that all quotes are computed on the same premium base. Coverage such as General Liability and Worker's Compensation usually is based on estimated sales/receipts and payroll figures, respectively, *that you provide.* Obviously, agents using different payroll estimates will quote different premiums; so make sure that all quotes are based on the quote specifications. Review policies carefully and ask your agent if differences exist among the various companies' forms.

CHOOSING THE RIGHT INSURANCE POLICY

As a pesticide application business owner, you have a lot riding on the insurance coverage that you select. The difference between continuing in business and closing the doors after a fire, chemical spill, or vehicular accident may hinge on whether or not you have selected the right types and amounts of coverage. And in order to do that, you must identify your short- and long-term risks. Assessing your needs may take time that you don't feel you can spare. But businesses big and small must be protected against risk, and the first step is identification.

Taking the time to assess insurance needs may be easier for large businesses with supervisors, managers, and technicians who generate sales and maintain operations while the owner handles insurance and other corporate matters. Small companies often do not enjoy such an elaborate infrastructure, and the owners themselves may assume all roles: supervisor, manager, applicator, and secretary. They may be spread too thin to recognize the importance of setting aside time to research and select the right kinds of insurance. But with the business at stake, the time is well spent.

Consider the following points when deciding to purchase or update a commercial business insurance policy:

- Ask the agents to tailor coverage to your needs.
- Keep an open mind. Listen to your insurance agent's advice as to the coverage you need, even if you feel that you don't need it or can't afford it.
- Ask for written proposals.
- Determine that coverage limits are adequate.

You may be surprised to learn that certain additional coverage may not increase your insurance premium substantially. So leave your options open: Ask to review and discuss all types of coverage, then pick and choose based on your needs. Ask if there are measures that you can take to decrease your premium, e.g., installing safety equipment.

Your Decision to Purchase

Don't let price or coverage alone influence your decision. Give some thought to the *services* offered by insurers: customer education, claims processing, and risk management. Factor into your decision the financial stability and reputation of the insurance companies whose quotes you are considering.

The Written Binder

The insurance agent confirms with the insured the types and amounts of coverage purchased; any coverage declined is marked on the original written proposal and initialed by the insured. The initialed proposal, then, indicates the entire realm of coverage offered and the exact coverage declined. It documents that the agent recommended certain coverage that the insured decided not to purchase. This is especially important to the agent in the event of errors and omissions issues.

Policyholders should always require a *written binder,* effective and delivered prior to the expiration date of existing coverage. The initialed proposal forms the basis for the written binder—a single-page document, usually—stating the types and amounts of insurance purchased, the inception date, the policy period, etc. The binder is considered a legal document; both the insurance agent and the policyholder should have a copy on file.

The agent signs the binder and presents it to the policyholder (in exchange for a premium deposit) as proof of insurance until the actual detailed policy can be written; the policyholder signs it, as well, binding himself to the contract. Always require the agent to deliver the issued policy within 30 days of inception.

Instruct your agent to send certificates of insurance directly to state agencies that require them; provide a list of other entities that require certificates of insurance and ask your agent to forward those, as well. Request copies of the agent's correspondence with all recipients. Maintain an organized file of all insurance transactions.

Reviewing the Insurance Policy

Ask your agent to review your policy with you when she delivers it. Check it for accuracy. Look and listen for discrepancies between the limits, deductibles, types of coverage, premiums, rates, sales and payroll estimates, etc., and those originally proposed. Keep a copy of the policy on file at the office so that it is handy for reviewing coverage as your situation changes, e.g., if you purchase additional equipment or if your Worker's Compensation rates and classes are updated. Maintain the original policy off-site so that it cannot be destroyed if there is a fire or other mishap on the business premises.

The Legal Perspective

Most insurance claims are handled amicably, that is, the insurance company, the agent, and the policyholder work together to verify loss and determine the appropriate claim and payment, and the insurance company pays for the loss. However, some insurance claims do not progress so easily. The insurance company may deny or contest a claim based on a policy provision or exclusion.

Policy provisions can be ambiguous, leaving room for debate as to the scope of coverage. It is common for insurance companies and policyholders to take opposing views on the definition of a term or phrase. For example, consider an *intentional conduct* exclusion. The insurance company may take the position that a claim resulted from the unexpected consequences of *intentional conduct* and therefore is not covered; the policyholder may view the consequences *accidental,* thereby expecting payment of the claim. Insurance policy interpretation usually is a matter of sate law, and it varies radically from state to state.

Ask your agent for assistance in contacting the insurance company, directly, for written interpretation of your coverage; or consider having your policy reviewed by an attorney or an outside consultant who represents policyholders in insurance coverage disputes.

Lawyers view insurance policies from a different perspective than do insurance companies. Let your attorney know, up front, how much time and money you can allocate to the review. An unrestricted review could cost thousands of dollars. Stipulate questions of critical importance for which you need answers in writing. Following are some examples:

- How do the courts in this state construe standard policy provisions with regard to the specific risks my business faces?
- How might exclusions affect my claims?
- Will my policy cover chemical pollution as a result of a warehouse fire? If so, are the limits sufficient to cover judgments and remediation expenses?
- Will my vehicle policy cover claims arising from an accident in which chemicals are released into storm drains or creeks? If so, are the limits sufficient to cover judgments and the cost of remediation?
- Will I be covered if a customer claims exposure to pesticides?

Annual Update and Review

A good agent and a sharp business owner begin reviewing existing coverage 60–90 days before its expiration. Update the insurance specification list to correspond to changes involving vehicles, gross receipts, payroll, sales, building and equipment values, etc. Make the agent aware of any new services or operations that you now perform, such as snow removal, aquatic pest control, fumigation, etc. Discuss any type of exposure that is new since the inception of, or excluded from, your existing coverage.

Retaining Insurance Policies

Reevaluate annually to determine what your business has to lose and what risks and liabilities should be covered. For example, if the building in which you operate cost $100,000 to build in 1985, today's replacement cost might be $150,000 or more. Working ahead allows your agent to solicit quotes on the updated information and write a proposal for discussion at least 14 days prior to the expiration of the existing policy.

Liability policies should be kept permanently—even if the business is sold. Coverage that you had years ago might apply retroactively in the event of a claim based on something that occurred during the active policy period. Environmental contamination and the long-term effects of an employee's exposure to a chemical, as an example, may not be discovered for years—even decades. The policy still applies if the claim arises from an occurrence covered during the policy period. Documentation of past coverage is difficult, if not impossible, if the policy has been discarded.

Staying with the Insurance Company

Different types of coverage can be included in a single business policy and can include policy definitions or other information which can be useful in determining occurrence-based coverage. Therefore, the retention of all insurance policies, liability and otherwise, is a prudent business practice. Dedicate a space in your office for filing copies of all insurance information; maintain the originals off-site.

As the policyholder, consider staying with the same insurance company for as long as it can meet your needs. As with most business relationships, the longer the affiliation, the stronger the loyalty. Insurance companies are more likely to pay questionable claims to a loyal client than to a newcomer. And it is less likely that long-term, profitable clients' coverage will be cancelled due to a large claim.

THE CLAIM: WHO DOES WHAT, WHEN, AND WHERE

You buy insurance for the claims coverage that it provides, so the coverage—not the price—should be most important to you at the time of purchase. Determine the expertise of your agent and investigate the claims experience of the insurer for the types of loss your business might suffer.

Addressing complaints does not guarantee that everyone will walk away happy, but a quick response often prevents the problem from getting worse. Ignoring complaints or failing to address claims against you or your business can make

- small problems large,
- minor claims major, and
- out-of-court settlements nearly impossible.

Allowing a complaint to reach the courts can lead to lengthy hearings, increased litigation expenses, and contentious bickering. The history lesson is simple: Missed opportunities to resolve claims promptly often lead to more expensive resolutions.

The Policyholder: Reporting and Participating

Common policy conditions place the responsibility on the policyholder to immediately report claims to the insurance company or its agent. All insurance policies include a requirement for prompt notification; and, in some cases, a delay can cause an otherwise covered claim to be denied. Sometimes there is litigation between the policyholder and the insurance company. But even if the insurance company and the policyholder settle differences, or if a court determines that coverage exists, there may be a delay of months or years before the insurance company pays the policyholder or claimant. Carefully review the notice provision in your policy to be sure that notice is given properly and promptly.

In addition to reporting and notification requirements, the policyholder also is required to

- notify the police when a crime is committed;
- provide a detailed explanation of the accident, injury, or loss;
- furnish the names and addresses of injured persons;
- produce a list of witnesses and their addresses;
- send to the insurance company copies of requests, demands, or summonses concerning the claim;
- cooperate with the insurance company in its investigation, settlement, and defense of the claim;
- give signed statements under oath;
- authorize the release of medical records to the insurance carrier;
- submit injured parties to medical examination by physicians selected by the insurance carrier.

Agreeing to Fault

The policyholder should never agree to or make an offer for settlement of a claim. The insurance contract is a promise to pay on the part of the insurance company, not the policyholder. Most policies specifically exclude coverage for voluntary payments made by the insured. A common rule of thumb is for the policyholder to inform the claimant that all pertinent information will be turned over to the insurance company for review. Visit the site of contention and write a detailed report, substantiated with pictures, to provide the insurance adjuster. You may tell the claimant to call you if the insurance company has not contacted him within three days; this will allow you time to speak to or meet with your agent to discuss details of the claim. Once you have done so, it is the responsibility of the insurance company to handle, settle, and pay the claim.

Many policyholders believe that paying their own claims helps to keep premiums low; the truth is, a few minor claims do not have an adverse impact on your premium. Insurance companies expect to be notified of all claims: Policy language requires it. Even if the claim is equal to or less than your deductible, you are required to report it promptly. Failing to do so may jeopardize coverage if the small claim turns into a big one. Money that you advance voluntarily to the claimant may not be reimbursable by your insurance carrier. Let the insurance adjuster do his job. Timely notification allows him to respond quickly to contain the loss. It is his responsibility to satisfy the claim in such a manner as to guard against future demands from the claimant.

The Agent: Collector of Information

Most insurance claims are submitted directly to the agent who services the policy. The agent's role is to get as much pertinent information as possible, organize the facts into a written claim report, and send the material to the insurance carrier. Agents may wish to view the scene of serious or substantial accidents; firsthand observation helps in communicating the claim details to the insurance company. An agent should ask the following questions about an vehicle claim:

- When and where did the accident occur?
- What vehicle was involved?
- Who was driving?
- Why was that person driving?
- What is the extent of bodily injuries, if any? Who was injured?
- Is the vehicle damaged? If so, what portions of it?
- What is the estimated cost of repair?
- What are the details surrounding the accident?

- Is there a police report? If so, state the name of the police officer, the jurisdiction, and where a copy of the report can be obtained.
- Were there any witnesses? If so, can you provide names, addresses, and telephone numbers?

The agent is under the same constraints as the policyholder as far as making commitments to settle a claim. While he may investigate and document a claim, he usually is not in a position to judge who is at fault or the dollar amount of damages.

Independent agents *represent* the insurance company but are not company *employees.* Even agents directly employed by the insurance company are not authorized to pay or settle claims; that is the job of the company's claims department.

The Insurance Company: Investigate and Reimburse

Claims are forwarded to an adjuster who decides whether the policy covers the claim and, if so, how much will be paid.

If coverage applies, the claims adjuster may request additional records (e.g., service agreements, service slips, chemical application logs, customer contracts) or direct more detailed questions to the policyholder. Most of the initial work by the adjuster can be conducted over the telephone. One common method of documenting questions and answers is to record conversations between the adjuster and the policyholder and other persons linked to the case.

Adjusters in many cases can offer a settlement within a few days on first party claims involving only the insurance company and its policyholder. The resolution of a claim on third party legal liability where there is a question as to whether coverage applies, or where a substantial amount of money is involved, takes longer. In such cases, adjusters or their representatives personally visit the affected person or property to examine and document the seriousness of the claim; they may conduct interviews with involved parties and document injuries and damages via photographs and video.

Claims adjusters also may ask independent, professional appraisers for estimates of loss. For instance, if an orchard is damaged by spray drift, how much is the loss worth? If a fire destroys a building, how much will it cost to repair or replace it? The appraiser's estimate, policy provisions, and the claims file are used by the adjuster to estimate a settlement.

Disagreement Between the Policyholder and the Insurance Carrier

In most cases, the insurance company, the agent, and the policyholder work together to verify a loss and come to agreement on the settlement, and the insurance company then pays the claim. But some claims are not settled so easily.

An insurance company's initial denial may be incorrect, so do not hesitate to press a claim. You may disagree with the adjuster's interpretation of your policy or with the amount of insured loss he assigns. The disagreement may prompt you to hire your own insurance attorney and/or appraiser and negotiate differences. Unresolved minor issues may be decided in small claims court or through arbitration; to the extreme, a bad-faith denial of coverage can subject the insurance company to the payment of damages.

Some aspects of business insurance are more likely than others to result in controversy and litigation. Denials of environmental claims, for example, are litigated routinely nationwide. Courts in some jurisdictions find coverage for environmental claims, pursuant to the terms of standard comprehensive general liability policies, even when the policy contains a pollution exclusion. Some courts find coverage for environmental or chemical-related losses under first party property insurance policies.

Insurance law varies from state to state, so it is impossible to generalize statements on policy provisions. Policy language is fairly standard, even in policies issued by different insurance companies; but, even so, most states review general statements and request changes based on state laws.

Third Party Litigation and Lawsuits

If the insurance company has assumed the policyholder's defense, the claim may be settled—even if the policyholder wants to fight it—because it is cheaper than hiring an attorney and going to court. For instance: A person asks for $1000 for damages to her garden and trees, allegedly caused by pesticide drift from an adjacent property. The pesticide applicator wants the insurance company to fight the claim, tooth and nail, because he believes his chemicals did not drift. An attorney will take the case, estimating that litigation will cost $7500. So the insurance company must decide whether to spend $1000 to close the case—even if its client is innocent—or spend $7500 in attorney fees, court costs, etc. It's clearly cheaper to pay the $1000 and settle!

Any admission of liability may be harmful to the policyholder's business reputation and may invite subsequent claims. Therefore, all settlements should be without admission of liability and accompanied by a full release from further liability.

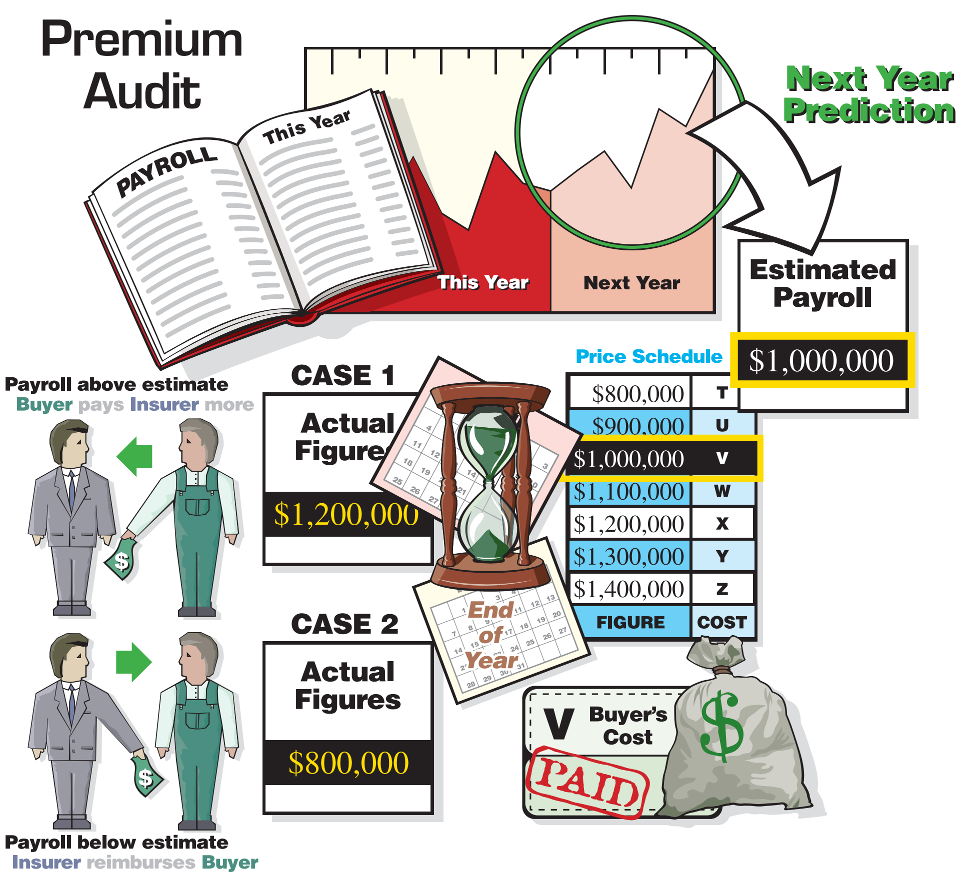
There are numerous examples where both sides—the insurance company and the third party—just cannot reach a settlement, where negotiations reach an impasse and all discussions seem counterproductive. Litigation may be the only remedy; yet, even as the process begins, each party tries to find middle ground on which to resolve their differences. If all efforts fail, it's left to the judicial system.

AUDITS AND SURVEYS: PAYROLL, SALES, AND SAFETY

The Insurance Audit

Appropriate pricing of insurance coverage is a challenge to the insurance carrier. Unlike other businesses, insurance companies set prices for their products without knowing what claims they ultimately might have to cover. Actuarial studies help anticipate losses due to various exposures, thereby serving as a starting point in determining rates. Rates are established for the various unknown exposures and adjusted based on limits purchased, deductibles, perils covered, etc.

Rates for property coverage are based on characteristics specific to the property item. Pricing for General Liability and Worker's Compensation insurance is more difficult because exposures cannot be exactly predicted. Exposures, or *premium bases,* usually are computed on sales



or payroll *projected* for the upcoming policy year. Insurance companies price these policies on the basis of assuming more or less risk when sales increase or decrease; more sales might mean more customers, therefore more concern for general liability claims. Employers may have to hire additional staff to accommodate the increased workload, fueling concern for Worker's Compensation claims and forcing premiums up.

The insurance audit adjusts the differences between projected and actual payroll and sales. It ensures that the final earned policy premium is truly reflective of the intangibles insured, that is, the coverage provided. Insurance audits can be conducted voluntarily by the insured, or on-site by the insurer.

A voluntary audit is less expensive but riskier to the insurance company. The policyholder is asked, at the end of the policy period, to complete and return an audit form detailing truthfully and accurately the final sales and payroll.

The on-site audit—more expensive to the insurance company, but less risky—is conducted when the insurance auditor makes an on-site visit to personally inspect the policyholder's actual payroll and sales records.

Loss Control Surveys

Some insurance companies send safety specialists to evaluate the day-to-day activities of the businesses they insure. They observe how work is performed on the premises and at job sites and complete a loss control survey.

A good survey evaluates all aspects of the business operations, e.g., how chemicals are stored, how internal training is conducted, how work and office areas are maintained, etc. Loss control surveys are designed to offer the policyholder suggestions to help prevent claims. Businesses which fail to implement reasonable and standard procedures suggested by loss control specialists may face nonrenewal, restricted coverage, or higher premiums.

RISK MANAGEMENT

The purchase of insurance may not always be the best way to mitigate hazards. There are alternatives that may modify your need for insurance or reduce the risk of business assets being impaired. This is called *risk management.*

The risk management process begins with the identification of risks inherent to your business. As an example, consider a hypothetical lawn care business and its associated risks: physical damage to the business property; lawsuits; and loss of income. Explore the process necessary to eliminate or minimize threats posed by its operations.

Once ABC Company has identified its areas of risk, prudent economic solutions must be exercised to minimize the potential for negative financial impact.

Risk Assumption

Risk assumption is the conscious decision to assume some or all of the risk. In other words, it may be determined that the benefits of a particular activity or situation outweigh its risk potential; therefore, ABC Company may consider the risk worth taking and be willing to absorb any associated financial loss.

Risk Avoidance

The act of avoiding a particular activity or operation that poses risk is called *risk avoidance.* For example, ABC Company may believe that lawn mowing poses significant risk: Employees are vulnerable to injury; equipment is expensive and difficult to maintain, and the cost of labor is high; also, there is potential for third party injury or property damage. Consequently, insurance premiums are high. ABC can avoid these risks—and therefore the cost of insurance—by not offering lawn mowing services.

Loss Prevention

A business owner may assume a risk but implement *loss prevention* measures, both physical and procedural. In our example, ABC Company might incorporate loss prevention procedures in an attempt to make mowing a less hazardous operation. Employees would be properly trained to use the equipment (fewer injuries); a regular equipment maintenance schedule would be implemented (longer serviceable life); and equipment would be secured, inside, at night—or locked, if left at the job site (fewer incidents of theft). Loss prevention measures afford the business better control over sustainable loss.

Loss Reduction

Loss reduction means simply to minimize loss. ABC Company may choose to transport chemicals in a 200-gallon tank instead of a 600-gallon tank. The smaller load would be easier to contain than the larger load and possibly less costly to clean up, should a spill occur.

Risk Transfer

Shifting the consequences of loss from one entity to another is called *risk transfer.* The classic example is insurance, where ABC pays a premium to relegate its risk to the insurance company.

A combination of risk management solutions may be employed. Let's say that ABC Company decides not to conduct lawn mowing operations; instead, they will subcontract the work. In doing so, ABC transfers to the subcontractor the risk of employee injury and the cost of mowing equipment, its maintenance, and insurance against theft. Although third party liability might still apply, the subcontract shifts primary responsibility to the company that conducts the mowing operation. The transfer is validated by the subcontractor's certificate of insurance in evidence of its General Liability, on which ABC Company is named as an additional insured, and its Worker's Compensation coverage.

Through the use of multiple risk management techniques, ABC adequately addresses the hazards associated with lawn mowing,å while increasing revenue and maintaining its image as a full service operation. Risk management is an ongoing process of recognizing loss potential and implementing solutions to minimize or eliminate risk.

CONCLUSION

Your first and best line of defense against claims is careful attention to minimize risk. Insurance should never be viewed as a substitute for risk management: It does not reduce the occurrence or dollar amount of claims against you; it merely pays for them. Risk management addresses all facets of an operation, whether it involves writing a better customer contract; providing safer work areas; conducting employee education programs; inspecting service vehicles; posting signs, placards, and posters; conducting pre-employment physicals; or requiring drug or alcohol testing. Companies that train and expect their employees to perform their work in the safest way possible take major strides in reducing claims.

Even safety-conscious business owners incur claims. And becase even the best-run businesses are susceptible to situations that result in claims, it is prudent to transfer a portion of the risk to an insurance company. Insurance decisions never should be based solely on price. As owner of a company that conducts pesticide application services, you know very well that the lowest bid does not necessarily mean the best value. Price is just one component of insurance; others are agent and company services, financial stability of the insurance company, and details of the proposed coverage.

When selecting an insurance agent, choose a person that you can work with effectively: someone you can trust; someone with the expertise and experience to advise you and to handle any claims or audits that might arise. Select someone who exudes confidence. If the agent is successful in gaining your trust, chances are that he or she will have a similar impact on insurers, claims adjusters, and auditors—on your behalf.

Select agents, insurers, and attorneys with experience in your industry. They should be familiar with the kinds of risk involved and the challenges that you face.

Never *assume* that the insurance protection that you have purchased conforms exactly to your needs. Take time to read the policy and to compile questions to ask your agent. Ask questions about claim scenarios: Would I be covered if . . . ? and insist on answers in writing. Stay informed of legal controversies regarding the meaning and scope of standard insurance provisions and exclusions.

You have a lot at stake in deciding what insurance to purchase, and from whom, so participate in the process: It's your business! Take time to listen to your agent, and be prepared to make important coverage decisions, up front. Once a claim is filed against you, it's too late to make sure it's covered!

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INSURANCE TERMINOLOGY

It is important to understand all terminology used in insurance proposals presented for your review—especially the one you decide to purchase. Ask your agent to define unfamiliar terms and phrases within the context of the policy in which they appear.

Most insurance terms used in this publication are defined in the text. Others are defined below.

Blanket: Covering a wide variety of conditions.

Insurance carrier: The insurance company; the insurance underwriter.

"Find coverage": Declare in court that coverage exists. (See page 51.)

Floater: A policy that insures movable personal property.

"Hold harmless": To relieve from responsibility or liability for any damage or loss.

Inland Marine Insurance: Insurance chiefly covering risks to goods and means of transportation involved in the transporting of goods overland or by inland waterways.

Self-Insured Retention (SIR): That portion of a risk or poitential loss assumed by the insured. It may be in the form of a deductible, self-insurance, or no insurance.

Statutory: Required by or having to do with law or statute.

Real Property: Property consisting of lands and all appurtenances to lands, as buildings, crops, etc.

Underwriter: The insurance company; the insurance carrier.

NOTES

New 5/2000