

with the U.S. Food and Drug Administration (FDA). Since almost all processes use an ingredient from an out-of-state source, you will invariably have to file your process with the FDA if you thermally process low-acid or acidified food products. Operating under a Hazard Analysis and Critical Control Points (HACCP) plan requires filing your process with the FDA and is not necessary for acid foods. Retailing an acidified food requires an approved process, applying for a variance, and passing better processing school.

For more information on obtaining an approved written process prior to licensing, call the Division of Food Safety at 608-224-4700 or email food@datcp.state.wi.us

For HACCP guidelines through FDA, go to: www.cfsan.fda.gov/~brd/haccp.html

Liability Concerns

Most farms and farm businesses, and certainly farms with direct and intermediate marketing enterprises, have complex mixtures of potential personal and business liabilities. Insurers nationwide are gaining experience with alternative farm enterprises. Because farm insurance needs are complex, you should work directly with an insurance agent to identify your particular needs and to obtain the kinds of coverage necessary.

Farmers who market products need to regularly review their insurance needs with an insurance agent and attorney. Liability questions are more challenging than those raised by simple physical property coverage. Insurance companies offer a diverse range of coverage. Individual policies are available for physical loss of property, liability, and workers' compensation, as well as coverage for other specific needs. The alternative most local food marketers select is a package policy that combines all types of coverage in one policy.

Liability and Farm Insurances

Farmers are exposed to liability for their enterprises, whether conducted on the premises or away from them, such as while selling at a farmers' market. You are also exposed as a result of injuries to you or one of your employees. If your product causes harm to the buyer, you may be held liable. Liability insurance is



Photo courtesy Department of Tourism

Besides assessing rules and regulations for your business, you must determine the risk involved in your enterprise. Whether selling on-farm or through various markets, farmers need to regularly review insurance needs for their business.

essential to pay for sums you may become legally obligated to pay.

The main areas of insurance needed typically include liability for products sold, for visitors to the farm, for farm workers, as well as coverage for the value of crops grown and property and equipment owned.

Product Liability

Liability for the food that you sell is called "product liability." This is handled differently depending on where and how much product you sell. On-farm sales may be covered through your regular property insurance package, but don't assume that is the case. Ask your insurance agent if you are covered if someone gets sick from food that you sold. If you are selling to grocery stores or food services, they may require you to carry separate product liability coverage. Some farmers' markets require each vendor to carry their own liability coverage. If you are selling product through a distributor, you probably will be required to carry product liability coverage. Following safe food handling and food processing practices are necessary

to limit your liability exposure and to guard against people becoming ill from your products. Some buyers may refuse your product if they realize you failed to follow safe food handling practices.

Premises Liability

Liability for people who visit your farm is called “premises liability.” If your farm enterprises involve having visitors to the farm, ask your insurance agent if your policy covers all liability exposures. For example, a policy may cover visitors who are guests, but not customers of a farm-based business.

When you have a farm enterprise that invites customers to the farm, such as a Pick Your Own farm, a petting zoo, or a corn maze, there are safety measures you can take to minimize risk to your customers such as:

- Make sure the areas that customers visit are free of debris.
- Get rid of wasp and hornet nests near areas visited by customers.
- Eradicate harmful weeds such as poison ivy, stinging nettles, and ragweed.
- Strictly follow re-entry times for any pesticides.
- Lock up farm chemicals, if used.
- Keep farm equipment away from customer areas.
- Post signs to warn of any dangers you are not able to remove.
- Have a well-marked and large enough parking area.



Photo courtesy Department of Tourism
Farmers are liable for the food they sell. Some farmers' markets require each vendor carry their own liability coverage.

Not only do such measures protect your customers, they give you some protection against claims of negligence should an injury occur at your farm.

Workers' Compensation and Employers' Liability Insurance Coverage

You have liability for any farm worker you hire. Most employers—including family farmers—are required to carry workers' compensation insurance for employees. Under Wisconsin law, a person engaged in farming is required to obtain a workers' compensation policy when that person employs six or more employees for 20 consecutive or nonconsecutive days during a calendar year. Employees injured on the job receive medical and wage benefits. If workers' compensation doesn't apply, the injured party can still receive compensation from the employer for monetary loss and possibly pain and suffering.

As with product and premises liability, you need to talk to an insurance agent to discuss insurance coverage needs relating to your employees. If you are exempt from carrying workers' compensation, you still need to make sure you have adequate farm worker coverage on your regular farm property insurance package. Also, farmers who are exempt may still choose to purchase workers' compensation coverage as a benefit to their employees.

As a farm employer, you have liability not only for injuries to your employees, but for injuries or losses they may cause to others. To lessen this risk, post clear guidelines and written job descriptions for your employees and discuss this liability concern with your insurance agent.

Property Insurance Coverage

Farm property includes buildings, vehicles, equipment, and inventory. A clear explanation in the policy is essential so you know what the policy provides.

Farm property insurance includes coverage for different types of farm structures, vehicles, machinery, equipment, inventory, livestock, and crops. Coverage options may vary depending on the type and cause of loss. Losses may include damage to or loss of physical items that are owned, leased, or contracted by your business.

You must know the value of the property or equipment you wish to cover and today's replacement value of these items. You'll also want to evaluate what type of losses will impair your farm operation and for how long.

Read your farm property insurance policy carefully to know the risks covered and any conditions, restrictions, or exclusions that may limit insurance coverage. Review your insurance coverage annually and make any needed adjustments.

Crop Insurance and Livestock Price Insurance

The Risk Management Agency (RMA) of the USDA underwrites crop insurance for farmers. The RMA provides insurance for a wide variety of crops, including many fruits and vegetables. For a list of crops covered, go to www.rma.usda.gov and search "Crops Covered." Then choose the list of crops covered for the most recent year.

RMA's Adjusted Gross Revenue (AGR) product provides protection against low revenue due to unavoidable natural disasters and market fluctuations that occur during the insurance year. Covered farm revenue consists of income from agricultural commodities, including incidental amounts of income from animals and animal products and aquaculture reared in a controlled environment. For more information go to: www.rma.usda.gov/policies/agr.html

AGR-Lite insurance is available through underwriting by the RMA. This whole-farm income insurance policy is based on a farm's five-year history of revenue, plus the current year's farm plan. This type of plan may be attractive to diversified enterprises since coverage is not tied to one specific crop or mix of crops.

Noninsured Crop Disaster Assistance Program (NAP)

USDA's Farm Service Agency's (FSA) program provides financial assistance to producers of noninsurable crops when low yields, loss of inventory, or prevented planting occur due to natural disasters. For more information go to www.fsa.usda.gov and search NAP or go to your local FSA office.

Supplemental Revenue Assistance Program (SURE)

This program, while not an insurance, is available to eligible producers on farms in disaster counties that have incurred crop production losses and/or crop quality losses during the crop year. For more information go to www.card.iastate.edu/iowa_ag_review/summer_08/article3.aspx

Resources for Risk Management and Insurance

www.uwex.edu/ces/agmarkets/publications/documents/A3811-7.pdf
UW Cooperative Extension
"Risk, Liability and Insurance for Direct Marketers"

www.rma.usda.gov/pubs/rme/fctsht.html
USDA Risk Management Agency (RMA)
Online publications and crop fact sheets.

www.rma.usda.gov/tools/agents/companies/RMA
RMA's online agent locator lists crop insurance and livestock price insurance agents.

WISCONSIN ADMINISTRATIVE CODE

The rules of a state agency have the effect of law and are issued by an agency to implement, interpret, or make specific legislation enforced or administered by the agency, or govern the organization or procedure of the agency. "Wisconsin Administrative Code" means such rules as they may be amended from time to time. See the chapters for Agriculture, Trade and Consumer Protection (ATCP) at: www.legis.state.wi.us/rsb/code/atcp/atcp.html