

Are You Protected?

Using these risk management techniques can help ensure you're covered if a customer is injured, or property is damaged, as a result of a product or service you provided.

by John Hodapp, Senior Vice President,
Agency Operations, Hortica Insurance

Nurseries, garden centers and landscaping companies stock and use many potentially hazardous products, such as pesticides, fertilizers and other chemicals, as well as outdoor power equipment and gardening tools. Basic "General Liability" insurance policies provide protection for injuries that occur on a business' premises. An all-too-common example is a

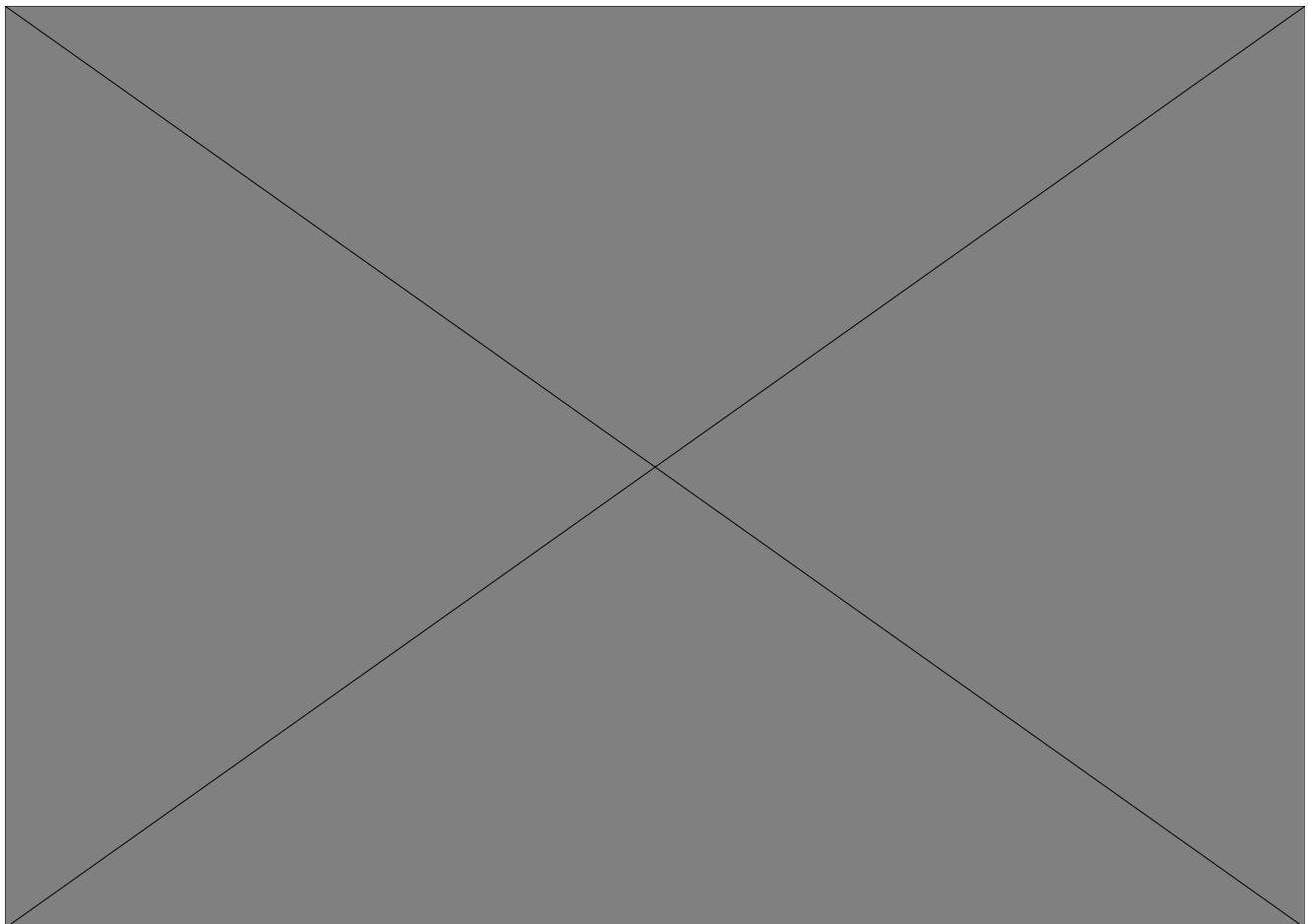
customer injured as a result of slipping and falling on a wet floor. Coverage also typically extends to off-site operations such as a landscape contractor completing work at the job site. However, injuries or damage to property caused by products you sold or accidents resulting from work you completed in the past may require more specialized protection.

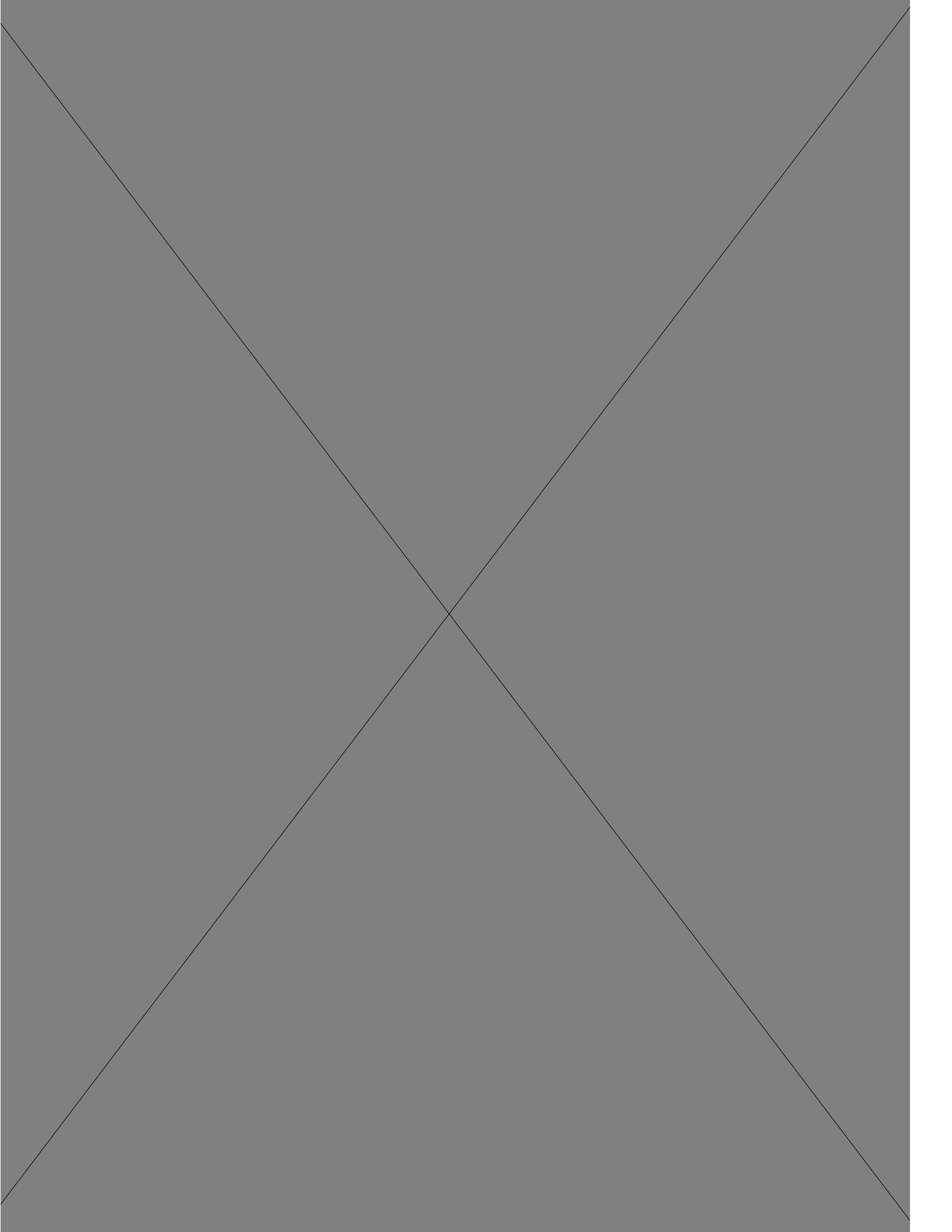
Products Liability

Claims or lawsuits resulting from injuries or damage to property caused by

products you sell are insured by a coverage known as "Products Liability" insurance. For example, if a garden center or florist sells a Christmas tree that comes already flocked with lights and those lights start a fire in a customer's home, the retailer is protected against liability by Products Liability insurance.

In addition to the products they sell, businesses create potential liability exposures as result of work they do. In insurance terminology, this exposure is known as "Completed Operations." For example,







the installation of holiday lighting can create a Completed

Operations liability exposure if an incorrectly installed fastener causes a short circuit resulting in a fire at a customer's home. As a retailer or a landscape contractor, you are potentially liable if a customer or their property is harmed by a product you sell or use on a job. Horticultural businesses can protect themselves against consumer lawsuits by carrying adequate Products Liability insurance as part of a regular commercial general liability package.

Completed Operations coverage, typically sold in conjunction with Products Liability insurance, protects businesses from claims and lawsuits resulting in injuries or damage to property that occur after the work is completed. An example of such a claim might be a garden center that repairs lawn mowers. If the garden center accidentally fails to tighten the fastener holding the blade to the machine and someone is seriously injured, Completed Operations insurance would cover such an event.

Covering All The Bases

Although policies purchased by retail establishments typically include Products Liability and Completed Operations, businesses that sell products produced by others should take steps to ensure that the manufacturer/distributor also has Products Liability coverage – and will defend and indemnify the retailer should a product result in an injury to persons or property. There are several reasons why this is important:

1 Why would a retail establishment or landscape contractor risk higher insurance premiums or possibly jeopardize its ability to even purchase insurance at a reasonable cost due to an injury or damage to property caused solely by a manufacturer's negligence? Without proper documentation in place, a small retailer (with the help of its insurer) may be forced to pay substantial sums to injured customers even though the retailer did nothing but sell the defective product.

2 The manufacturer or distributor may purchase greater limits of insurance than does the retailer. With proper documentation in place, retailers may be able to take advantage of these higher levels of liability protection.

3 A retail establishment's insurance company will probably be impressed by the positive loss control attitude a firm exhibits by working to transfer risk to negligent manufacturers. Such an attitude may result in less expensive insurance for the retailer.

4 Causing the manufacturer of a defective product to step up and pay claims caused by their negligence simply makes sense compared with tagging an innocent retailer with a big liability judgment.

Retailers should require the companies who supply them with product for resale to name the retailer as an "Additional Insured" on the supplier's general liability insurance policy. The retailer should receive a "Certificate of Insurance" showing that the required insurance is in place and provided by a sound insurance company. The amount of coverage required should be at least \$1,000,000 per occurrence with higher limits desired for hazardous products. The insurance policy should be written by a company rated at least A- by A.M. Best Company, a nationally recognized insurance company rating organization. Retailers should work with their own insurance agents to develop insurance requirements appropriate for their individual businesses. Plans should also be in place to obtain annual renewal certificates.

Firms that use sub-contractors, such as a garden center that sub-contracts landscape work, face similar risks. In such instances, the garden center would want to obtain a "Certificate of Insurance" from the sub-contractor that names the garden center as an Additional Insured regarding Commercial General Liability insurance. The garden center also should require the sub-contractor carry Workers Compensation insurance that covers injuries to its employees. The Workers Compensation insurance should be verified by obtaining a Certificate of Insurance. Failure to follow this recommendation could result in making the garden center responsible for injuries suffered by the contractor's employees.

Handling these insurance matters properly may generate a little more administrative work, but the payoff could be huge if a serious injury or property damage claim occurs. TGC

John Hodapp is senior vice president, agency operations, Hortica Insurance. Visit Hortica's Web site at www.hortica-insurance.com.

Pan Am
#031
4/c