Port Risk Management and Insurance Guidebook

September 1998

U.S. Department of Transportation
Maritime Administration

Port Risk Management and Insurance Guidebook

September 1998

Prepared by:

Office of Ports and Domestic Shipping
Maritime Administration
U.S. Department of Transportation

In cooperation with:

The American Association of Port Authorities

LEGAL NOTICE

This report was prepared as an account of government-sponsored work. Neither the United States, nor the Maritime Administration, nor any person acting on behalf of the Maritime Administration –

(A) Makes any warranty or representation, expressed or implied, with respect to the accuracy, completeness or usefulness of the information contained in this report, or that the use of any information, apparatus, method, or process disclosed in this report may not infringe privately owned rights; or

(B) Assumes any liabilities with respect to the use of any information, apparatus, method, or process disclosed in this report. As used in the above, "person acting on the behalf of the Maritime Administration" includes any employee or contractor of the Maritime Administration to the extent that such employee or contractor prepares, handles, or distributes, or provides access to any information pursuant to his employment or contract with the Maritime Administration; and

(C) Represents that this document is intended to provide legal guidance or describes risks and liabilities with legal accuracy.

FOREWORD

The overall objective of the *Guidebook* is to provide ports with the basic skills and information needed to establish and maintain appropriate and cost-effective insurance and risk management programs. It is designed to serve as a practical "how-to" manual and educational reference text. While it is written from a port's point of view and geared toward the basics of insurance and risk management, experienced port risk managers and other organizations in the industry should find it valuable also.

In 1997, Mr. John Pisani, Director of the Office of Ports and Domestic Shipping in the Maritime Administration (MARAD), discussed with the members of the American Association of Port Authorities' (AAPA) Finance Committee the need to update the original MARAD guidebook. A working group consisting of insurance, safety, and risk management specialists was organized and completed this revised document. A special appreciation and thanks go out to those contributors listed on the following page.

This document is contained in a three-ring binder as a way of facilitating future revisions. All future revised pages will be clearly marked "Revised" and dated. Anyone wishing to ascertain whether there have been any revisions should contact MARAD's Office of Ports and Domestic Shipping at 202/366-4357 for that information.

The report also may be downloaded from MARAD's homepage: http://marad.dot.gov. Follow the "What's New" link on the homepage to access it.

GUIDEBOOK CONTRIBUTORS

Project Leadership:

Norman S. Arikawa
Chief Accountant
Port of Los Angeles
Project Co-Leader

David Solis
Manager, Risk Management
Port of Corpus Christi Authority
Project Co-Leader

Susan F. Lee
Port Specialist
Maritime Administration
Project Co-Leader

Katherine D. O'Neal
Deputy Director
Port of Palm Beach
Chair, AAPA Finance Committee

Albert J. Francis II, Deputy Executive Director
Director of Finance, Administration, & Risk Mgmt.
Canaveral Port Authority
Vice-Chair, AAPA Finance Committee

Other Contributors:

Faye S. Carter
Risk Manager
Alabama State Docks Dept.

Rita Mae Chappelle, ARM
Risk Manager
Port of Seattle

Leonard C. Cross
Manager, Risk Management
Arthur Andersen (Boston)

Dan Donaldson
Risk Manager
Jacksonville Port Authority

Monica Dove
Safety Engineer Associate I
Port of Los Angeles

Cindi Heffernan, CPCU
Assistant Vice President
Sedgwick of Washington, Inc.
(Seattle)

Gordon Heile
Risk Management Services
Hugh Wood, Inc.
(Philadelphia)

J. Michael Mahaffey
The Kleberg Law Firm
(Corpus Christi)

Andrea Marzette
Risk Manager
Port of Portland

Thomas D. Morelli
Program Manager, Port and
Cargo Security
Maritime Administration

Peter F. O'Connor, CPCU
Vice President
Hugh Wood, Inc.
(Philadelphia)

Reginald Patrick
Risk Manager
Port of Houston Authority

Manuel R. Ramirez
Safety Engineer Associate II
Port of Los Angeles

Seth Shapiro, CPCU, ARM, AIS
Senior Vice President
Sedgwick of Washington, Inc.
(Seattle)

Edward J. Sheppard
Partner
Thompson Coburn
(Washington)

Edward K. Stephens
Emergency Preparedness
Coordinator
Port of Los Angeles

Charles I. Thompson
Safety Officer
Virginia International Terminals,
Inc. (Norfolk)
AAPA Safety Committee,
Appointee to MACOSH

Melissa Thompson
Assistant Risk Manager
Canaveral Port Authority

Samuel E. Williams, Jr.
Risk Manager
Port of Los Angeles

Robert A. Wolz, ARM
Senior Vice President
Sedgwick of Washington, Inc.
(Seattle)

TABLE OF CONTENTS

APPENDIX C: EXPOSURE IDENTIFICATION QUESTIONNAIRE C--1

LIST OF FIGURES

CHAPTER 1: THE RISK MANAGEMENT PROCESS

Accidental losses of property, income, life and health, and from liability to others are facts of life which represent risks of potential serious financial consequences to all business organizations. Risk arises for each of these due to the variation of possible outcomes that can occur throughout time. The greater the number of possible outcomes, the greater the amount of risk. All possible outcomes of an event occurring over a specified period of time can be plotted graphically to create a probability distribution. There is a rational process – the risk management process – for preventing or minimizing the adverse effects of these losses. Good risk management reduces the negative effects of uncertain future losses by making these losses less likely, less severe, or more predictable – allowing more effective allocation of the organization's scarce resources.

Risk can be categorized as either "speculative risks" or "pure risks." Speculative risks or "business risks" are those risks where there is a chance for gain as well as loss. A port's decision to build a new dock and terminal facility would be an example of a business risk. The risk associated with building the new facility is speculative since it could result in either a financial gain or loss.

Risk management is concerned primarily with those risks which are *not* of a speculative nature. These risks, often identified as "pure risks," arise when there is only the possibility of loss. There is no chance of a gain with a pure risk. Thus, the variation of possible outcomes associated with opening a new port facility is not a pure risk since there is a possibility of a gain or a loss. However, the variation of port property and liability losses is a pure risk since a port is in a position to only lose. Since risk management deals solely with pure losses, the definition of risk can be redefined to that "variation of pure losses that will occur over a specified period of time."

Risk management has been defined as "the process of making and carrying out decisions that will minimize the adverse effects of accidental losses upon an organization." Making these decisions is a five-step process.

The five steps of the risk management process are:

1. Identifying and measuring loss exposures.
2. Identifying and examining alternative techniques for dealing with these exposures.
3. Selecting the most appropriate risk management alternatives consistent with the organization's risk financing philosophy.
4. Implementing the selected alternatives.
5. Monitoring and improving the selected alternatives.

Traditional risk management involves only "pure risk" as discussed above and not business risks. However, an increasing number of today's leading risk managers are expanding their functions to include managing:

- Liquidity risks – not having sufficient cash or other liquid assets to function normally.
- Market risks – inability to buy or sell goods or services in customary markets at usual prices and terms.
- Political risks – adverse actions of governments that may expropriate or excessively restrict or tax an organization's assets and activities, or block currency transactions.
- Technological risks – failure to keep pace with changes in production, operating, and service techniques or quality standards.
- Catastrophe response planning.
- Security and fire safety risks – failure to protect facilities and personnel from acts perpetrated by criminals, terrorists, and disgruntled employees.

The current terms applied to this expanded scope of activities are "Holistic Risk Management" and "Enterprise Risk Management."

THE RISK MANAGEMENT DECISION PROCESS

Identification and Measurement of Loss Exposures

Identification of Loss Exposures

The first step of the risk management process, the identification of a port's loss exposures, is one of the most important steps but the one most often ignored. A thorough, comprehensive identification process is critical because all subsequent steps in the risk management process flow from these findings. Every loss exposure has three dimensions: (1) the type of value exposed to loss; (2) the peril causing loss; and (3) the extent of the potential financial consequences of that loss.

A port needs to develop techniques that systematically identify those areas of pure risk. The key word is systematically. A structured approach should always be used to identify loss exposures. Without such an approach, some loss exposures will not become evident until a loss actually occurs. Of course, after a loss occurs is poor time to start planning for it.

There are a variety of techniques that can be used to systematically identify losses. These include insurance company checklists, flow chart methods, analysis of past losses, review of financial statements, inspections, interviews with employees, and trade journal articles on insurance.

- Surveys/questionnaires regarding the organization's operations (see Appendix C). One must be aware that most existing documents of this type are "insurance oriented" and are therefore limited to identifying risks for which conventional insurance is available. The objective should be to identify all possible exposures – whether insurable or not – so this will require a more comprehensive search usually requiring a customized questionnaire.
- Reviewing the loss history of your organization and networking with counterparts in similar organizations in your industry to learn of their sources of loss.
- Analyzing your organization's financial statements and accounting records for sources and uses of funds, asset entries, liability entries, etc.
- Reviewing your organization's other records and documents such as leases, contracts, purchase orders, etc., to find liabilities assumed or transferred; minutes of board of directors' meetings to learn of future plans; capital budgets to identify property values at risk.
- Constructing flow charts of operations to help identify potential bottlenecks; preparing emergency response plans to assure continuity of operations in the event of catastrophe, etc.
- Continually conducting personal inspections of facilities to keep current on all activities and to identify unusual exposures not determinable from surveys, questionnaires, or monitoring other internal documents.
- Consulting with experts within and outside your organization to supplement your knowledge and understanding of potential exposures to loss.

Financial Statement. One technique often used by risk managers to identify losses is the financial statement approach. The person responsible for risk management (risk manager) should analyze the port's financial statements to determine where potential loss exposures exist.

Analysis of the port's financial statement in terms of this outline may assist in identifying exposures.

Areas of Potential Loss

- *Property Loss*
  Direct – fire, lightning, explosion, etc.
  Indirect – business interruption, extra expense, etc.
  Crime – dishonesty, theft, burglary, forgery, computer fraud, etc.
- *Liability*
  Premises, Products, etc.
  Marine (e.g., stevedores' legal liability)
  Auto

Professional Environmental impairment liability (i.e., sudden and non-sudden [gradual] pollution)

- *Personnel Losses*
  Key employees
  General employees
  Workers' Compensation

Flow Chart. Constructing a flow chart tracing the movement of goods from when they enter the port facility until they leave can be helpful to identify loss exposures. After completing the flow chart, determine what events can interrupt the smooth flow of goods. Are there specific points on the flow chart which are susceptible to bottlenecks? The flow chart is a good tool for the risk manager to visualize the activities of the port. For this reason, it serves as a useful supplement to the checklist approach and financial statement analysis.

Historical Losses. An analysis of a port's historical losses can often help identify potential future losses. A risk manager should not put too much emphasis on this technique alone since many port loss exposures may not have generated a loss up to now. In addition, ports are experiencing a dynamic period when new loss exposures are being created daily. To be more effective in performing this analysis, it is a good idea to stay in contact with other ports and discuss with them any risk management problems, exposures, or solutions. Communication with peers can help identify new loss exposures. Trade journals that publish articles on insurance provide another reference in identifying loss exposures.

Facility Inspection. One of the best means of identifying a port's loss exposures is to periodically inspect the facilities. Inspections are important because with other exposure identification techniques the risk manager is heavily reliant on the information provided by others. Often there is a significant difference between what is reported and what actually exists. By inspecting port operations, the risk manager becomes better acquainted with activities that are actually being performed by the port. Interviewing employees can also provide valuable information because port employees interact each day in the port environment and can assist in the identification of loss exposures. Note: Port employees may be performing some hazardous activities without the knowledge of a port's management. It is not uncommon for employee activities to create loss exposures.

There are four categories of pure losses that will be identified by the seven identification techniques described on the previous page. (1) "Direct property losses" occur when tangible port property is destroyed or damaged by a particular peril. (2) An example of an "Indirect Property Loss" is the destruction of half a building by fire. The half destroyed by fire would incur a direct property loss. If the remaining half of the building is condemned because it does not comply with building codes, the demolition of the remaining portion of building is described as an indirect loss. (3) "Net income losses" occur as a result of a direct loss to port property that causes either a decrease in revenue or an increase in expenses. (4) The final category is that of "liability losses." Liability losses occur when port operations damage or destroy another party's property or cause bodily or personal injury to others.

After the four types of losses are identified through the techniques discussed, the loss potential of each exposure is measured to determine the seriousness of the loss exposure. The next section examines the measurement of the loss exposures, the second step of the risk management process.

Measurement of Loss Exposures

All loss exposures are comprised of frequency and severity dimensions. Next in the risk management process is to measure these dimensions so that the risk manager can determine their relative importance to the port. This measurement stage is also important to the stages that follow in the risk management process when the risk manager attempts to control and finance the losses arising from the exposures.

The frequency and severity of all loss exposures lie in one of the quadrants of the loss matrix below:

Figure 1
Loss Exposure Matrix

Cell A ▪ High Severity ▪ High Frequency	**Cell C** ▪ Low Severity ▪ Low Frequency
Cell B ▪ Low Severity ▪ High Frequency	**Cell D** ▪ High Severity ▪ Low Frequency

Because they represent catastrophic loss exposures, Cells D and A require immediate attention. Total cost to a port of loss exposures found in Cell B can be substantial because losses here tend to be more frequent: they are often treated through loss control, thus reducing the frequency. Loss exposures in Cell C are sometimes considered as a "cost of doing business" and absorbed within the operating budget, however systems should be implemented to control these costs. Often the control mechanism can be implemented and administered by line management without direct involvement by a risk manager.

Before a risk manager can determine where a loss exposure lies in the loss exposure matrix, he or she must measure the exposure's frequency and severity. Historical loss experience of the port and the industry assists in the identification of loss frequency and provides a good indicator of future loss frequency. The credibility of this information increases as the quantity of data increases.

When estimating the severity of a loss exposure, the risk manager should be careful to look at all the losses that could arise out of a particular event. In addition, the risk manager should consider the period of time necessary to put the port in the same condition as it was prior to a loss. For example, after a major fire loss, the indirect property losses and loss of income can be greater than the direct property damage. Consequently, the risk manager must look at the ultimate financial impact of a loss on the port. Only after all the costs that arise from a particular event have been identified, such as fire damage to a key location, can the true severity of loss be determined.

After the port has identified and measured its loss exposures in terms of the loss exposure matrix, the next step is to develop alternative risk management techniques to handle the risks.

Developing Risk Management Techniques for Loss Exposures

Once you have identified a loss exposure's appropriate cell in the Loss Exposure Matrix, the next step is to identify and examine the alternatives for risk control and risk financing appropriate for the identified exposure.

Identifying and Examining Alternative Techniques

Risk Control Alternatives

Exposure Avoidance

This is the elimination of the chance of a particular loss occurring. Exposure avoidance is the decision to eliminate a particular activity, operation, or asset because of the high severity/high frequency loss factor. Exposure avoidance also includes the decision where a port decides not to undertake a new activity, operation, or asset. A port could not exist if it avoided all risks.

Loss Prevention

Loss prevention decreases the probability of loss. An example would be adopting an employee safety and health program.

Loss Reduction

This reduces the severity of losses after they have occurred. An example of loss reduction would be the installation of automatic sprinklers to reduce the amount of loss after a fire has started.

Segregation or Separation of Exposures

This includes removing an operation, activity or asset to a segregated site so as to eliminate exposures to adjacent operations.

Pooling

Pooling is a combination of the risks of homogeneous or similar entities to achieve economies of scale for coverage, pricing, and credibility.

Non-insurance (Contractual) Transfer

This transfer technique is a sixth form of loss control, which will be discussed in depth in the section on risk financing that follows below.

Risk Financing Alternatives

Retention

(Retention includes: expensing of losses; unfunded loss reserve; funded loss reserve; borrowing to pay for losses; and using a captive insurer). Even with a loss prevention program, losses are still likely to occur. In anticipation of these losses, a port must consider the various risk financing techniques that are available. The first form of risk financing is retention, which can range from the application of deductibles to the establishment of a captive insurance company. However funded, the port is paying all or a portion of its own losses. The types of losses that a port should be willing to retain are those that it can absorb without jeopardizing its financial stability.

There are certain loss exposures that should not be retained because of their unique or catastrophic nature – these should be transferred outside the organization. There are two transfer techniques commonly used: contractual transfer and insurance.

Contractual Risk Transfer

Risk can be transferred to others by a contract or by the purchase of insurance. In either case, the transaction is viable only if the assuming organization has the financial ability to satisfy all losses arising from the transferred risk. For this reason, you should know the financial rating of the insurance companies you use. In addition, you should require the parties to whom you have contractually transferred risk to meet their obligation with insurance in appropriate amounts from a company having a satisfactory financial rating. Although several services offer insurance company ratings, the most widely used one is "Best's Insurance Reports" which provides evaluations of 3,000 Property/Casualty and 1700 Life/Health Insurance Companies. Best's apply two types of rating opinions – Best's Rating and Best's Financial Performance Ratings (FPR) based on qualitative and quantitative evaluations of the financial strength, operating performance and market profile – as well as an indication of the financial size based on capital, surplus, and conditional reserves. (See Exhibit A in Appendix B, page B--1.)

This section of your guidebook will provide a general checklist and guidelines for your use in:

- Establishing prudent terms and limits of insurance for your program.
- Determining types and limits of insurance to require of those parties to whom you have transferred risk by contract.

Insurance Required of Others (Risk Transferees)

In all cases insurance requirements must include the specification that all policies be issued by insurance companies satisfactory to your organization, e.g., companies having an A.M. Best rating of "B+, FPR 6, FSC VIII" or better. (See Exhibit A in Appendix B, page B--1.)

Your organization must be included as an *additional insured* on all liability policies and, the insurance must be *primary and non-contributory* with your policies (require a copy of the policy endorsements granting you these conditions). Note: Additional insured status provides coverage only as broad as that granted by the policy to which you are added, is on a shared limits basis, and may be subject to impaired or exhausted aggregate limits.

Where work is being performed for you by others, a separate *Owners and Contractors Protective Liability Policy* (OCP) with limits equal to your contractual requirements may be used as a substitute for or supplement to additional insured status. Exclusive limits are available to protect your organization but are not in addition to those provided to you as an additional insured. Note: To avoid the "other insurance" clause of the OCP involving your insurance policies, the same primary/non-contributory wording should be required as part of the OCP policy.

All contractors, vendors, suppliers, tenants, and other suppliers of goods or services should, in all cases, be required to furnish satisfactory evidence of the following insurance:

1. *Statutory Workers' Compensation and Employers' Liability* – including, if appropriate, coverage for Federal Employees Liability Act (FELA), the Jones Act, the Federal Longshore and Harbor Workers' Compensation Act (USL&H). (If self-insured, evidence of compliance with applicable statute.) Note: In states allowing employers to opt out of workers' compensation, evidence of other insurance protecting their employees should be required. Remember: Employees of non-complying employers working for you have the option of suing their employer at common law, or being covered under your workers' compensation policy or self insurance as if they were your employees.

2. *Commercial General Liability* – coverage to include their operations for you on-site or off-site to include at least:

   - Premises and operations with all of the included coverages in the Insurance Services Office (ISO) form
   - Products liability
   - Completed operations liability
   - Contractual liability
   - Additional insured endorsement
   - Notice of cancellation or non-renewal to you (requires endorsement)

   Separate aggregate limits per location is an advisable supplemental requirement for larger contractors.

3. *Business Automobile* – Coverage to include all owned, non-owned and hired automobiles (ISO symbol 1)

4. *Professional Liability* – (Physicians, lawyers, engineers, etc.) additionally, certain contractors, tenants and others will have exposures unique to port operations for which coverage should be evidenced, including:

   - United States Longshore and Harbor Workers' Compensation Act (USL&H)
   - Jones Act
   - Protection and indemnity for vessel operations. Crew coverage with prudent limits can be utilized in lieu of Jones Act
   - Stevedores' liability for loading/unloading vessels
   - Warehousemen's liability for storage of good of others
   - Wharfingers' liability for safe berthing and tie down operations

   Note: Common sense dictates that the nature and scope of the job, the exposures arising from the job, the availability of coverage and the cost of insurance be considered in the determination of the types and amounts of insurance required of others.

After a port has examined the risk control and risk financing alternatives, the next step is to select the appropriate alternative for each.

Selecting the Most Appropriate Risk Management Alternatives

After examining the available risk management alternatives, the risk manager must select the best alternatives.

A port should always use some form of loss control and loss financing. The intent is to first reduce the frequency and severity of loss; then finance those losses that do occur, in the most cost-effective manner.

A rational basis for determining the selection of risk control and risk financing techniques should include:

- Forecast of frequency and severity of expected losses.
- Asking how will various risk control and financing techniques affect frequency, severity, and predictability of losses.
- Forecasting the total costs and benefits of each of these techniques.

Figure 2
Loss Exposure Tools Matrix

Cell A	Cell C
▪ High Severity ▪ High Frequency	▪ Low Severity ▪ Low Frequency
RM Tools: Avoidance & Non-insurance Transfer	RM Tools: Self-Retention
Cell B	**Cell D**
▪ Low Severity ▪ High Frequency	▪ High Severity ▪ Low Frequency
RM Tools: Loss Control	RM Tools: Self-Retention & Insurance

"RM" = Risk Management

To determine what alternatives or combination of alternatives best serve the interests of the port, the risk manager should go through a formal decision analysis whereby he or she sees how each alternative will affect the port in both the short and long run. Some criteria to judge the effect of each alternative are required to perform this analysis. For a port operating as a public entity, the effect on cash flow is an acceptable criterion. For privately owned ports, the effect on profit is an appropriate criterion. The important point is that a criterion should be chosen which accurately satisfies a port's philosophy. After a port has selected the most appropriate alternatives based on its criterion, the next step is implementation.

Implementation of Selected Alternatives

This step must be based on the underlying, common sense principle that each technique considered can be successfully implemented and monitored. Implementation involves:

- Technical decisions – determined by the technical expertise (selection of appropriate insurer, proper limits and deductible, equitable price) and based on the line authority of the risk manager.
- Managerial decision – the success of this aspect of implementation will depend on the ability of the risk manager to persuade other managers of the logic and advisability of their support and cooperation in carrying out the chosen plan of action. This function is based on the risk manager's staff or advisory authority.

Monitoring and Improving the Selected Alternatives

Once implemented, a risk management program needs to be monitored to ensure that it is achieving the expected results and adjusted for changes in exposures and availability or costs of alternative techniques.

1. Standards (while difficult to establish in consideration of the high degree of chance affecting loss results) are necessary to evaluate the risk manager's performance.

   A. Results standards – establishing a realistic specific goal for losses is difficult, if not, impossible, because of the effect that "chance losses" and occurrences, over which the risk manager has no control (earthquake, flood, explosion at adjacent premises), have on final costs. Also, it is possible that luck – either good or bad – can affect loss performance.

   B. Activity standards are based on the quality and quantity of tasks performed by the risk management department. These may be considered by management as being different from the standards of "contribution to bottom line" by which other managers are judged and might result in the conclusion that the risk manager's contributions to the organization are not the same as other managers.

   C. A carefully designed standard comprised of targeted results, activities, and directions of change – ideally adjustable to occurrences beyond control or forseeability by the risk manager – would represent a viable basis for judging performance. The speed and effectiveness of adjustments to the program, as required, is another standard of performance.

2. Correction of substandard performance requires determination of the cause, which will dictate the appropriate response. If loss frequency increases, prescribed loss prevention activity may be inadequate, and enforced compliance is indicated; if retained losses are growing alarmingly, risk control procedures being performed should be determined and changed if necessary, or the retention levels adjusted if all other factors involved are functioning properly. If the operations of the organization change, appropriate adjustments should be made and communicated promptly.

The Role of the Risk Manager

The risk manager should know more about the port's risk management program than any other executive, employee, or outside consultant. Therefore, the overall structure of the program and its effectiveness in carrying out its objectives rest directly in that person's hands. [Page 2--8 contains a more detailed discussion.]

Loss prevention, while it may or may not fall within the risk manager's purview, is probably the most effective tool to reduce the organization's cost of risk. It is difficult to measure and document the direct savings from loss-producing accidents which are prevented by developing and enforcing safe work procedures. Even more elusive, though no less real, are identifying and quantifying the indirect benefits of uninterrupted operations and the efficiency realized because of the continued availability of regular, experienced employees who are not injured because accidents have been prevented.

Management's Role in Risk Management

Management's endorsement and full support is indispensable for the effectiveness of any risk management program.

A practical method of initially securing this support is the formulation of a written Sample Risk Management Policy Statement (see page 2--3) for use in communicating to others both the purpose of the risk management program and the actions which others throughout the organization can take to contribute to the program's success. The text of the proposed statement should be offered to senior management for review and revision before distribution. A well formulated written risk management policy statement offers the following advantages to the organization:

- Establishes the general goals and objectives of the risk management program within the organization.
- Defines the duties and authority/responsibility relationships of the risk management department.
- Coordinates the treatment of loss experience on a reasonably standardized basis among various organizational subdivisions.
- Establishes and/or improves existing communication channels and management information systems.
- Provides for program continuity and facilitates transition during times of personnel changes in the risk management department.

Maintaining management's support and understanding of the risk management program is a challenge in view of the many issues competing for attention. An annual risk management report to management is an effective reminder of the program as well as a vehicle to present current information and summarize the past year's performance. A sample outline for an annual report is included as Exhibit B (on page B--2).

Continuing Education

To be effective, the risk manager must be familiar with the current status and aware of impending changes in the many areas of business which affect his or her performance.

As a member of organizations such as the American Association of Port Authorities (AAPA), the Risk and Insurance Management Society (RIMS), and Public Risk Management Association (PRIMA), you may attend workshops and seminars on work-related subjects where you will have the opportunity to meet others with similar responsibilities.

CHAPTER 2: RISK MANAGEMENT ADMINISTRATION

An effective port risk management program depends on many factors, not the least of which is a sound administrative framework. No two ports design and implement their administrative frameworks in precisely the same way. However, risk management administration for all ports should feature certain key elements and attributes.

The most critical administrative element underlying successful port risk management programs is senior management support. The port's risk management strategy and objectives should certainly be closely connected with the port's overall strategy and goals. In turn, the port's overall mission, culture, and values should clearly demonstrate senior management's commitment to a culture that promotes safety for employees, the public and other constituents; focuses on protecting the assets and reputation of the port; and minimizes the organization's total cost of risk.

Grass roots risk management efforts are laudable but in the long run are not nearly as effective as those with clear senior management support. Senior management is uniquely positioned to direct port staff that "risk management is everybody's business". State of the art risk management programs involve staff throughout the organization, at all levels, in managing risk. Only with full senior management support and leadership can such sweeping risk management involvement become a reality.

Other key elements and attributes of effective risk management administration include:

- A formal, written, and widely disseminated risk management policy statement.
- A written manual that outlines business processes, procedures, responsibilities, systems, and documents that support the risk management program.
- Qualified risk management staff, appropriately positioned in the port's management hierarchy, with well-defined responsibilities and clear authority for carrying out the organization's risk management mission.
- An annual report to senior management that recaps risk management's achievements and presents goals and objectives for the coming year.
- Sound criteria for selecting agents, brokers, and consultants, and well-defined approaches to managing these relationships.
- A structured process for collaborating with agents, brokers, or consultants to design, market, implement, and assess the port's risk financing program.
- A risk management information system for tracking costs and trends and providing timely, accurate, and actionable information for management decision making.
- Regularly scheduled audits to evaluate the port's risk management status and to solicit objective assessments of the effectiveness of current risk management business processes.

These key elements and attributes are described in more detail below.

Risk Management Policy Statement

All ports have some sort of risk management policy. In many cases, the risk management policy is a by-product of the port's regulations, directives, or procedures with respect to risks. The combination of existing regulations, directives, and procedures define an informal risk management policy for the port. Unfortunately, this approach fails to provide a formalized set of guiding principles to direct and focus the port's risk management and insurance philosophy, processes, values, and culture.

A formal, written policy statement is essential for communicating the port's risk management mission and objectives. A policy statement is also effective in advising port staff what actions they can take to promote the port's risk management efforts.

Ports who adopt a formal written policy statement enjoy several benefits:

- Greater attention by senior management on the risk management function and its importance to the port.
- Committing goals and directions to writing tends to clarify them in everyone's mind.
- Stimulates interdepartmental discussions among the risk manager and operations managers, financial managers, the controller, and possibly outside auditors, to establish safety programs, determine risk retention levels and reserves, etc.
- Clearly defined duties, responsibilities, and authority for risk and insurance related issues and diminished potential for organizational conflicts.
- A solid framework within which risk management program goals can be structured to be consistent with the port's overall goals.
- Coordinated application of fairly standard treatments for loss exposures throughout the organization.
- Improved communication between the risk management function and its various constituents, inside and outside the organization.
- Better management of risk information.
- Smoother transitions in the wake of changes in risk management personnel.

A formal policy statement also provides some meaningful benefits to the risk management staff:

- Serves as a basis for training personnel who are new to the risk management function.
- Provides a framework for assigning responsibilities for organizational risk control and financing.
- Underscores the importance of the risk management function to achieving the port's overall goals.
- Clarifies the position of the risk management function within the port organization.

Risk management policy statements vary in both length and content, depending on the philosophy and organizational requirements of the port. A typical risk management policy statement establishes:

- What risk management encompasses (insurance, loss prevention, claims management, risk identification, etc.) and its importance to the port.
- Risk management's position in the port organization.
- The scope of authority and responsibility for the risk manager and others involved in risk and insurance issues.
- The port's tolerance and capacity for bearing risk without insurance. This information establishes an upper limit on the size of deductibles and retentions and identifies properties or risks that may be deliberately uninsured. It also establishes a threshold above which insurance or another risk transfer approach must be employed.
- The degree to which individual divisions or cost centers should be responsible for their own losses.
- How reserves will be used to fund assumed losses at the corporate level.
- The port's attitude toward using in-house versus contracted services.
- The port's position on activities involving risk (such as how many executives may fly together on one plane).
- Insurance bidding or marketing procedures. A limitation on bidding frequency (such as every three years) may be appropriate.

The policy statement also clarifies such functions as:

- Insurance purchasing
- Broker selection
- Safety responsibility
- Fire protection design

- Claims administration
- Lines of communication

Preparing the Risk Management Policy Statement

In most cases, the risk manager prepares the first draft of policy, after consulting with all parties involved. He or she then submits the draft to the Port Director and other officers, who may suggest changes or additions. After all interested parties (sometimes including the Port Commissioners) have given their full consideration and approval, the policy is disseminated under the signature of the Port Director.

A typical port risk management policy statement might be worded as follows:

Figure 3
Sample Risk Management Policy Statement

This policy applies to all pure risks (risks which can cause losses and whose undertaking involves no possible profit) such as fire, liability suits, theft, workers' compensation, and other risks of property and liability losses, both direct and indirect. It does not apply to deliberately assumed costs of employee benefits.

Mission

The mission of Port U.S.A.'s risk management and insurance function is to prevent loss of life and personal injury and to minimize the organization's total cost of risk (defined as the sum of risk control costs, losses assumed under self-insurance and retention programs, insurance premium costs, and the cost of risk management administration).

Port U.S.A. is to be protected against accidental loss or losses that, in the aggregate, during any fiscal period, would significantly affect Port U.S.A.'s personnel, property, budget, or the ability of the organization to continue to fulfill its responsibilities. In no event shall any loss of life or disabling personal injury to employees, customers, or members of the public be acceptable to the public entity.

Port U.S.A. will apply to risks of an accidental nature a logical management process. This process will include a systematic and continuous identification of loss exposures, analysis of these exposures in terms of frequency and severity, application of sound risk control procedures, and financing of risk consistent with Port U.S.A.'s financial resources.

Risk Retention

Losses that individually do not exceed $250,000 will normally be expensed without insurance. On the other hand, risks with loss potential greater than $250,000 will normally be insured. Any exceptions to this rule made by the Risk Manager in recognition of the financial resources of Port U.S.A. must be documented in regular reports to management. Guidelines for maximum uninsured losses will be reestablished annually by the chief financial officer, subject to review by the Port Commissioners.

Cost of Risk Allocations

Operating entities will expense losses to a level acceptable to the division manager, but no less than $1,000 per loss. The Risk Manager will determine insurance charges to divisions. They will include a proportional share of the port's insurance and administration costs, plus a loading to cover losses between the division and organizational loss retention.

(Continued)

Roles and Responsibilities

The Risk Manager is responsible and accountable for administering Port U.S.A.'s risk management and insurance program and will direct the activities of the Risk Management Department.

The Risk Management Department is responsible for directing and coordinating all risk functions, including:

- Risk analysis
- Purchase of insurance
- Claims adjusting
- Selection of insurance agents or brokers
- Development of risk charges to operating entities

The Risk Management Department will coordinate information and act in an advisory capacity with regard to fire protection, safety, security, and risk aspects of contracts or other legal documents.

Each division manager is responsible for conducting operations in accord with Port U.S.A.'s risk management standards and statutory requirements. Divisions must report all losses or claims, regardless of size, to the Risk Management Department or designated claims adjuster.

The Port Safety Director is responsible for keeping abreast of company activities and for advising proper safeguards to protect employees and the public.

The Legal Department is responsible for all contract wording. However, contracts that involve insurance, indemnity, or other risk provisions must be cleared with the Risk Manager prior to execution, unless exigencies of the situation make this impossible.

Communication

The Risk Manager and Safety Director must continually bring up to date their knowledge of all port operations. They or their representatives will visit major operating units (those with values subject to loss in excess of $5 million) at least annually.

Division managers are responsible for reporting new property values, disposal of assets, and significant changes in operations to the Risk Manager.

"Authorization for Funds"

The Risk Manager must clear all "Authorizations for Funds" associated with risk and insurance prior to final approval.

Risk Management Manuals

Definition

In order to deal responsibly and quickly with the extraordinary events contemplated by the port's insurance coverage, employees need an authoritative, easily accessible risk management reference. A well-conceived risk management manual can substantially reduce the risk manager's workload and facilitate communications between the risk management function and other departments within the organization.

A risk management manual can be:

- A field guide for personnel on how to handle claims, report values, keep records, etc.
- A tool for establishing and advancing lines of communication between the port's head-

quarters, field locations, and outside parties such as claims adjusters and loss control engineers.

- A reference for corporate policy on such day-to-day questions as how to insure rental cars, use of personal cars on company business, and coordination between workers' compensation and the port's employee benefits plan.

- Public relations material for the risk management department. Better understanding by port personnel of the scope and complexity of risk management and its positive impact on employees, third parties, the public, and the port's bottom line, the more port personnel will support the function and contribute to its success.

Risk management manuals are more widely used than written policy statements. A well-planned and executed risk management manual can be one of the risk manager's most useful tools. A user-friendly document that addresses frequently asked questions (How does the port's automobile insurance apply to me? What do I do in the event of a loss? How are insurance and loss costs allocated to my division?) and accurately describes the port's insurance program will be put to good use by staff throughout the organization. And each question answered by the risk management manual is one less phone call, e-mail, fax, or memo for the risk manager to respond to.

Purpose

The risk manager can employ the risk management manual to:

- Broadcast the port's risk management policy to all employees.

- Identify risks that fall within the purview of the risk management function.

- Provide a reference for field personnel on topics of exposures, risk control, insurance, and claims.

- Define responsibilities and authority for carrying out policy.

- Instruct employees as to their responsibilities and rights with respect to issues of risk and insurance.

Distribution

Every port will have a unique approach to disseminating its risk management manual. As a general rule, the manual should be provided to:

- Department heads or managers who need the information for planning or responding to questions about risk and insurance.

- Employees whose work involves risk. This may include the chief financial officer, human resources director, labor relations manager, engineers, and safety manager.

To account for all copies and ensure that changes and corrections are incorporated quickly, the risk manager should number each manual and issue it to a position, not to an individual.

Some ports have found that posting the risk management manual on their intranet provides easy access for all employees, streamlines the process of making updates and corrections, delivers near real-time availability of the most current information, and reduces supply and printing costs.

Contents

Some important items to consider for inclusion in a written risk management manual are:

- The port's risk management policy statement. (See the Sample Risk Management Policy Statement on page 2--3 for a detailed discussion of policy statements.)

- A directory of names, addresses, telephone numbers (business and home), and e-mail addresses of key risk management department personnel who employees can contact at any time. Making risk management personnel readily accessible to other staff can lead to discovery of new risks and reporting of losses that might otherwise be overlooked.

- The port's rules on risk, such as limits on the number of executives flying together, restrictions on the chartering of aircraft or boats, and requirements for reporting of dishonest acts by employees.

- A requirement that the Risk Management Department be advised of all proposed leases, agreements, or contracts. This requirement ensures that the Risk Management Department is aware of new activities, changes of a contractual nature, and the port's extension of hold harmless or indemnification or contractual assumption of risk of accidental loss. It also provides the Risk Management Department with the opportunity to advise of any contract amendments that should be considered to minimize the port's exposure to loss, and provides the information necessary to include in the system for monitoring for compliance with insurance requirements placed by the port on facilities' users and contractors.

- Detailed instructions regarding automobile insurance and coverage for employees driving a company car on port business or for personal use and those who receive a mileage allowance. Generally, the mileage allowance should cover payment for insurance because the employee's own insurance is usually primary. If this is not clearly stated and understood, employee dissatisfaction may result after an accident.

- Designation of individuals responsible to report significant changes in risk, such as leasing an outside warehouse, chartering aircraft or boats, starting a bowling team, etc.

- Standards for notifying the Risk Management Department as early in the process as possible of any plans for acquisitions, sales, or closings of facilities. Sufficient lead-time must be provided for the risk manager to properly place desired insurance. Further, a risk analysis prior to the transaction can make a significant difference in the attractiveness and the valuation of an acquisition.

- Establish (1) when the risk manager enters the picture when the port is planning an acquisition, sale, or facility closing and (2) what he/she is to do. The risk manager's task should begin at the time of evaluation when financial data are gathered. Everyone involved should be aware of the need to evaluate the entire spectrum of risks that may be assumed. Overall "underwriting desirability" is also another matter to take into consideration. A proposed acquisition may be a type of facility that the port's underwriters would not want to insure under any circumstances. Any property to be acquired should also be reported to the risk manager so he/she can arrange for a fire protection inspection. An inspection by a qualified fire protection engineer can identify any serious deficiencies such as inadequate water pressure or unprotected operations that might be costly to correct.

- Designation of appropriate field personnel to inform the risk manager of significant changes in values at risk.

- General rules on safety, security, or fire protection. These include the need for fire protection approval on each new project that either (1) involves any fire loss potential or (2) is for fire protection equipment. Instruct field personnel to obtain approval through the risk manager, to ensure that qualified specialists representing both the port and its insurers are consulted.

- Provide for advance notice to the Risk Management Department of any planned new construction (both expansion of present facilities or construction at new locations). An effective way to accomplish this is to require that the risk manager be provided a copy of all requests for approvals for capital expenditures. This approach normally provides the risk manager with sufficient time for input on loss prevention, safety, and other areas that impact the port's risk management programs during the planning stages of the construction project.

- Procedures for issuing, receiving, verifying, and renewal of Certificates of Insurance. The procedure should spell out what information is required to issue a certificate. A written procedure can reduce telephone requests for certificates.

- Risk Management should review contracts/proposals to establish insurance and bonding compliance/requirements.

- Risk Management should review incoming certificates and bonds to insure compliance with limits, required coverages, and additional insured status.
- Procedures/form letters should be established to communicate any deficiency, deviation, lack of compliance, or expiration.
- Certificate tracking/tickler systems should be developed (spreadsheets in-house or vendor software) to insure timely renewal of longer-term contracts, leases, and projects.
- Identification of fire protection, safety, and boiler inspectors, as well as rating bureaus, OSHA or other government agencies, who may legitimately visit port facilities. A manual should clarify how inspectors are to be treated and what to do with their recommendations. Recommendations of fire inspectors that involve spending money should usually be submitted in writing and channeled through the risk manager.
- Guidelines on insurance and hold harmless provisions to be included as part of any agreement or contract involving contractors, suppliers, or lessees. This procedure should describe the type and minimum amounts of insurance to be required before contractors, suppliers, or lessees will be allowed to commence any work. The guidelines should be written to cover most day-to-day situations.
- Instruction for controllers on how to allocate costs for insurance premiums, uninsured losses, risk management services, loss prevention costs, and other risk-related charges.
- General and specific procedures for claims reporting, processing, and settlement. These procedures should provide clear, step-by-step instructions for what to do in case of loss. They should also address who is to fill out and receive copies of claim reports, when and how such notice should be given, and what special and general procedures should be followed with respect to all types of claims. Samples of loss report forms should be included in the manual.

It may be helpful to include a general summary of insurance, risk management programs, and other pertinent information that is applicable to the risk management and insurance programs. However, the risk management manual should not be used to communicate details about the port's insurance coverage to the field nor should it include complete copies of the policies. When employees are given access to this kind of information, they are inclined to interpret coverage. Misinterpretation of coverage could result in unreported losses or unreported changes in operations. In addition, policies and coverages may change more quickly then the manual can be revised and redistributed. (Note that this is less of an issue if the manual is posted on the port's intranet.) Coverage information in the manual should be limited to summaries, deductibles, cost accounting, and reporting requirements.

The format should be loose-leaf to accommodate changes. It is helpful to print the words "Risk Management" or "Insurance" on the spine for easy identification. To enhance usability, the manual should be well-indexed, using divider tabs for major topics. A table of contents giving the title of all subjects and exhibits, with page numbers, should be included at the front of the book.

As mentioned above, the manual can also be posted on the port's intranet.

Structure and Staffing of the Risk Management Function

Several factors make it difficult to generalize about the level and reporting relationships of the risk management function within the port's overall organization.

First, risk management encompasses a multitude of disciplines, including law, finance, statistics, information technology, human resources, and industrial engineering. Further, the risk management function may also encompass insurance, loss prevention, safety, industrial hygiene, security, employee benefits, and other areas.

Second, the depth of senior management's concern about risk management and treatment of loss exposures varies greatly among ports.

Finally, some ports have a history of very strong risk management. Others have been less effective in this area.

Clearly, no single organizational structure can be ideal for all ports.

Risk Management Responsibilities

Principal areas of risk management responsibility generally include:

- Risk Determination and Evaluation – This involves identifying the loss exposures and size of potential loss inherent in the port's activities.
- Risk Financing – Determining whether to insure or self-insure, what alternative types of insurance and self-insurance to consider, how much insurance to purchase, how much risk to retain on a self-insured basis, and how to negotiate for desired insurance coverages and service arrangements.
- Claims Administration – Coordination of the handling and settlement of all significant claims and establishing and maintaining the administrative requirements of routine claims between involved parties, including legal.
- General Administration – Department budgeting and forecasting, planning for objectives, record and statistical keeping, accounting and cost allocation, and management of department personnel.
- Loss Prevention Engineering – Establishing systems and programs to prevent or minimize loss or damage to port assets or impairment of port earnings.
- Safety Administration – Establishing systems and programs to prevent or minimize injury to the port's employees.
- Security – Coordination or advising on security requirements and procedures to prevent or minimize loss of port property or assets by employees or others.
- Group Insurance Benefits – Supervising or advising on the benefits structure, financing of benefits, and administrative requirements.

A number of factors will bear on the organizational structure, staffing, and authority of a specific risk management department. Some of these factors include:

- The complexity of the risks. Generally complex risks with large loss potentials will require a more sophisticated and larger staff.
- Emphasis placed on the risk management department function by management often influences the location, staffing, and authority of the risk management department. Also to be considered is to whom risk management reports. If it reports to a financial officer, greater emphasis will be placed on risk financing and accounting controls. If it reports to a human resource officer, safety and loss prevention may be emphasized.
- Risk management history may also be a consideration. A large uninsured loss or a series of losses are generally well remembered by management. On the other hand, large losses that are appropriately insured may serve equally well in reminding management of the importance of the risk management function. Personnel strength of the risk management staff can also be an influencing factor. Recognized talent and ability can lead to increased development and expansion of the risk management department.
- The port's organizational structure and philosophy may also influence the risk management department. An organizational structure that stresses line management authority may desire to carve out certain risk management functions, such as safety or loss prevention, at an operational level while other ports may incorporate them in the risk management department as a staff function.

Roles and Responsibilities of the Risk Manager

Risks can arise out of any of the functions comprising a port's operations. The most effective risk management programs recognize that "risk management is everybody's business." Individuals with specific responsibility for various aspects of port operations are often best qualified to identify, assess, and control risks that fall within their specific areas of expertise. State of the art risk management programs involve staff throughout the organization, at all levels, in managing risk. However, in every port organization, a single individual has assumed or been assigned ultimate responsibility for issues associated with risk and insurance. In some organizations, this individual may hold the formal title of "Risk Manager" or "Director of Risk Management." In others, these responsibilities may fall upon finance or operations staff. At the smallest ports, the Port Director, an outside consultant, or the insurance broker may assume primary responsibility for directing the risk management program. Regardless of their formal titles, all risk managers share certain duties, responsibilities, and activities.

Directing the Risk Management Function

The risk manager should know more about the port's risk management program than anyone else in the organization and more than any outside consultants. For this reason, the risk manager is the focal point for shaping the port's risk management strategy, designing an overall program, and establishing meaningful objectives. As the leading risk management executive for the port, the risk manager is called upon to:

- Work with the port's senior management to establish a risk management policy as the basis for consistent functioning
- Plan, organize, and direct risk management department resources
- Collaborate with senior management in establishing and implementing organization-wide risk management areas of responsibility and channels of communication
- Monitor the port's changing risk landscape and adjust the risk management program as necessary to maintain strong risk control and cost-effective risk funding
- Enlist the cooperation and support of managers and other employees throughout the organization
- Communicate to senior management through regular (at least annual) reports on progress, status, and future plans
- Communicate with the field and department heads through the risk management manual, telephone, e-mail, and inspections
- Provide senior management with a variety of progress, status, and planning reports, such as status reports of risk management activities; analyses of losses and special communications of individual large losses; requests for approval or significant new projects; and requests for additional funds, personnel, or other resources
- Create incentives for action that promote the port's overall risk management strategy and objectives by equitably allocating cost of risk to the port's operating units
- Document all risk and insurance related activities and information
    - Data on insured and self-insured losses
    - Management decisions on risk
    - Telephone calls or e-mails regarding coverage and other important discussions
    - Correspondence related to risk management or insurance
    - Insurance policies (including expired liability policies)
    - Data pertaining to insurance policies
    - Property valuations, broken down by fire divisions
    - Fire protection maps showing separate fire divisions
- Administer a variety of risk management functions, including supervising contractors' certificates of insurance; directing Public Officials Liability policy preparation; assisting the legal department in developing standards for purchase orders, leases, and other documents; and handling bid, performance, and permit bonds
- Assemble a port risk management manual including instructions on how to handle claims, how to report values and changes, how to deal with loss control engineers, etc.

- Select an agent or broker to assist in marketing and servicing the port's risk management program

Identifying and Assessing Loss Exposures

The risk management process begins with an identification and assessment of loss exposures. This may be the risk manager's single most important function. Comprehensive risk identification and assessment requires the risk manager to undertake a rigorous ongoing process of:

- Conducting annual physical inspections of major port facilities
- Reviewing and evaluating contracts, leases, bond indentures, and similar documents entered into by the port
- Staying informed about relevant laws, regulations, and requirements
- Communicating regularly with key staff and operating managers
- Estimating ultimate costs for direct and indirect losses
- Studying the port's financial, budget, and operating reports
- Examining all insured and self-insured losses
- Reviewing capital budget requests from operating units
- Reading minutes of Port Commissioners' meetings

Risk managers, particularly those at larger ports, may not carry out all of these activities personally. However, the risk manager is responsible for identifying qualified individuals to whom these tasks can be delegated and monitoring performance to ensure timeliness and quality.

Risk Control

Port risk managers have at their disposal several techniques for controlling the risks associated with port operations. These include exposure avoidance, risk prevention, risk reduction, segregation of exposure units, and contractual transfer for risk control. The specific tasks supporting each of these techniques vary. However, the objectives of these activities, for which the risk manager and risk control department are accountable consistently include:

- Enlisting the support of senior management for an organization-wide culture of "safety first" and developing incentives that encourage and reward safe performance
- Ensuring that every constituent of the port, including employees, vendors, and lessees, understands their role in identifying and communicating hazards and taking appropriate control measures
- Within the limits of the risk manager's authority, directing the activities of the risk control department, particularly in emergencies
- Selecting and implementing alternative risk control techniques with the greatest potential return on investment to the port
- Training line managers in accident prevention techniques custom-tailored to their operations
- Resolving disputes between line managers regarding the most effective approaches to risk control

Transferring or Financing Risks

The risk manager must maintain thorough knowledge of the port's financial structure and organization in order to select optimal methods of funding risk. Risk funding techniques can generally be classified as either risk retention or risk transfer. Alternatives setting up lines of credit, using a captive insurer, pooling with others, and insuring.

Risk retention alternatives include expensing, reserving, setting up lines of credit, and using a captive insurer. Risk transfer techniques include contractual transfer and insuring.

Another option, pooling with others, combines elements of risk retention and risk transfer.

Regardless of the funding option, the risk manager will be required to conduct the same planning, negotiating, record keeping, and administrative activities. Responsibilities include:

- Working with senior management to determine the port's retention capacity for particular exposures
- Evaluating risk funding alternatives that satisfy the port's appetite for risk bearing and identifying optimal approaches
- After determining what insurance is needed, negotiating with underwriters (often in conjunction with the port's agent or broker) to obtain the best conditions of coverage and cost
- Following a loss, activating the chosen financing mechanism
- Measuring and controlling risk financing costs to ensure continuing cost-effectiveness
- On liability and workers' compensation claims, verifying that reporting procedures are adequate, that claims adjusters are the best available, that reserves are checked frequently, etc.
- Overseeing property and self-insured claims
- Initiating and following through on subrogation (recovery) procedures against third parties
- Monitoring claims expenses (investigations, expert witnesses, legal, etc.)

RISK MANAGEMENT ANNUAL REPORT

The Risk Management Annual Report is one of the most important communications that the risk manager is required to prepare and present. Annual reports are as diverse as the ports that prepare them. No two ports are alike nor are their risk management accomplishments. The following outline lists some subjects that could be included in the annual report (see Exhibit B, page B--2).

Summary and Highlights

Financial

- Summary of premiums
- Comparison to probable full coverage costs
- Summary of other costs: payroll, overhead, outside services, appraisal, salvage, security
- Summary of losses, insured and retained
- Incurred losses, number of cases and amount
- Reserves, number of cases and amount
- Large or unusual losses, including how they will be funded and steps taken to prevent recurrence
- Litigation, cases currently litigated; potential litigation cases
- Insurance recoveries

Loss Prevention and Safety

- Training and education
- Specific loss reductions achieved
- Liaison and communication regarding safety
- Safety committee activities
- Safety inspections, in-house, contracted, and insurer: cost/benefit analysis
- Action on fire protection recommendations and status of future action
- Security: computer and other
- Comparison of contracted employee guard force versus in-house security

Insurance

- Changes in coverage, limits, retentions, or underwriters
- Broker activities, remuneration and evaluation
- Plans for change

Claims and Other Services

- Evaluation

Administration

- Major plans for the coming year

SELECTING BROKERS, AGENTS, AND CONSULTANTS

In theory, there is a legal distinction between insurance brokers and agents. Brokers represent the insurance buyer. A broker represents many insurance companies and is free to shop the market for their customers to find the right kind and the right amount of insurance. However, a broker has no legal authority to bind an insurer to a policy without prior agreement. An agent is the insurance company's legal representative and is authorized to bind the carrier to an insurance contract. This theoretical distinction has blurred in the wake of court precedents and the apparent overlap of services and activities performed by brokers and agents.

The primary duties of agents and brokers include:

- Placing insurance coverage
- Selecting underwriters
- Negotiating premiums
- Analyzing policies
- Identifying and analyzing risks
- Conducting feasibility studies for alternative financing techniques
- Assisting in filing claims and facilitating claims adjustment
- Providing engineering and loss prevention services
- Maintaining records of historical premiums and losses and premiums

The selection of a broker or agent is important because this individual is often the port's only link to its insurers and its primary source of risk management advice and assistance.

In selecting a broker, a port should consider several factors, including:

- *Experience with the risks* – The port's broker or brokers should have knowledge and expertise in all of the exposures comprising the port's risk profile. In cases where the port faces unique, complex, or hard-to-place exposures, it may be necessary to use more than one broker to achieve the requisite breadth and scope of knowledge, experience, and market presence. Keep in mind that a broker whose expertise spans only a subset of the overall risk profile may not be competent to fulfill all of the port's risk management and insurance needs. The selected broker or brokers should be qualified to handle the full spectrum of risks, whether stevedoring exposures, terminal building property exposures, public officials' liability, crime, protection and indemnity, aviation, environmental liability, employment practices' liability, or any unusual exposure(s) the port faces.
- *Services* – The extent of brokerage services required will vary from port to port. In selecting a broker, the port must define the scope of services that will be required. If port staff, insurers, or outside contractors perform most services, requirements for the broker may be minimal. On the other hand, if the port intends to rely on its broker for engineering or loss prevention, policy evaluation, feasibility studies, loss runs, etc., the broker's service capabilities in these areas must be evaluated in the selection process.
- *Geographic Locations* – The proliferation of e-mail, fax, and other electronic communications tools has reduced the importance of geographic proximity between the port and its broker(s). However, in situations where frequent contact with the broker is required or where the broker may be relied on for on-site services, geographic proximity to the port is a valid consideration.
- *Brokers* – Generally an agency or brokerage house will assign primary responsibility for handling and servicing a port account to an individual. If this individual serves as the account executive for other accounts, the port may find itself contending with other clients for the account executive's time. Therefore, evaluate the size and experience of the broker's staff in gauging its ability to meet the port's needs at times when the account executive is serving other clients. If the broker also provides claims, risk control, analytical, or other services, the port should assess its capacity and capabilities in these areas, as well.

Another factor to consider is the broker's premium volume, particularly in lines of insurance similar to the port's own coverage. Premium volume is another indicator of the scope of the broker's experience in relevant lines of business and may be helpful in gauging the broker's clout or ability to obtain concessions from the insurance market that benefit the port.

Perhaps the most important factor to consider is the port's relationship with its broker. A port that is unable to communicate and closely work with its broker will have difficulty achieving the objectives established for its risk management and insurance program.

Broker Selection

A capable and motivated broker is one of the risk manager's most valuable assets. The selection process is vital. Unfortunately, selecting a broker is no easier than selecting an auditor, attorney, architect, or any other professional. Some preliminary issues to consider include:

- The ability of the account executive handling the port's account is more important to the success of the port/broker partnership than are the overall capabilities of the brokerage firm. The account executive must possess the experience, knowledge, and competence to consistently meet or exceed the port's expectations, as well as having good chemistry with port personnel.
- Many firms are concerned about the size of a brokerage firm. Quality outweighs size, even in marketing. Be skeptical of brokers who claim that their size brings clout in the market.
- Define the port's needs clearly (a written contract is important) and relate the broker's compensation (whether commission or fee) to actual services rendered. This approach gives the broker added incentive to focus time and effort on services that are essential to the port.
- Negotiated fees, where a broker's income is based on a proportion of insurance premiums, are gaining acceptance as a more professional means of compensation.

Selection Techniques

A broker is generally selected in one of four different ways, each of which present particular advantages and disadvantages (see Figure 4, page 2--14).

The approaches are discussed in greater detail in the Insurance Purchasing section on page 2--18.

Marketing

The function for which the broker is most indispensable is marketing, which involves:

- Selecting from the hundreds of insurers the few who are likely to be most suitable.
- Deciding how to structure an offering to the insurer; that is, whether it should be put in one or several packages, whether special risks such as aircraft products or professional liability should be taken to separate underwriters, whether it would be better to have many underwriters share in a single offering (vertical layering), or have one primary insurer with other underwriters taking different layers of excess insurance (horizontal layering), etc. Only a seasoned broker can properly make these kinds of critical decisions.
- Negotiating with underwriters on terms and conditions of coverage and price. Much skill, both professional and psychological, is needed here. Individual underwriters have their own strengths, weaknesses, and predilections. The broker who knows them from personal experience has an advantage.

Direct Writing Insurers

Many large and capable insurers pay no commission to a broker. There are two ways the insured can handle these direct writers: (1) deal with them directly, omitting the broker entirely or (2) use the broker as an intermediary, paying the broker a negotiated fee for his/her services. Both techniques have their place.

Figure 4
Broker Selection Techniques

TECHNIQUE	ADVANTAGES	DISADVANTAGES
Appointment without competitive bids	• Does not disturb markets. Underwriters give their best efforts to a broker who has the account in hand. With several brokers coming to him or her, an underwriter will not extend themself as much and may even refuse to quote. • Broker can negotiate alternative proposals in domestic and foreign markets, creating a competitive atmosphere between underwriters rather than between brokers. • Suggests a long-term arrangement offering continuity to underwriters, particularly important if good experience credit has been built up. Be wary here, though. Good experience could mean excessive premiums. • The broker and insured can spend more productive time together to arrange the best possible program.	• May be more expensive. • May create an appearance of impropriety. This technique is least suited to public and quasi-public bodies, such as ports. • Reduces insured's exposure to new ideas and developments of other brokers.
Broker selection without competitive quotes	• Does not disturb markets. • You receive a variety of ideas. • You receive a cost indication. • Allows continuity with existing markets after selection is made.	• Broker can overstate coverage and understate premium. • It does not allow any one broker to achieve much depth of understanding of the insured's special characteristics. However, the understanding could come after selection and the proposed program can then be appropriately modified.
Qualified Competitive Quotes	• Does not disturb markets. • Creates competition between underwriters and brokers, and probably lowers premium.	• Each broker loses the opportunity to utilize the combination of markets where they best fit, as with primary and excess layers. • Complete separation of markets is not always possible where high limits and reinsurance are involved. If so, competition could be limited to primary lines only. Excess lines involve relatively little premium and are often best handled by the broker on a non-competitive basis. • Some markets will refuse to negotiate until a broker is appointed, though in most cases, letters of broker authorization as described above should overcome this problem.
Unrestricted competition	• Possibly lower premium cost. • Elimination of political criticism.	• Underwriters do not extend themselves and sometimes refuse to quote when many companies are bidding. Because of this, ultimate costs may be higher. • Insurance markets may possibly be substandard, though this can be avoided by prequalifying markets (minimum rating by Best) or reserving the right to reject companies. • Low cost could last only one year. • The emphasis is on price rather than service and skill. However, if specifications have been adequately drawn and services properly detailed, coverage should be complete. Price can then represent the major variable. • Some markets may have been blocked (committed to only one broker or the price fixed at an unrealistically high level) by an unsuccessful bidder. Brokers sometimes go to an underwriter with a "suggested" price. If several brokers advise different levels, the highest will often prevail for all. • Markets could be blocked and not used.

The first technique is preferable when the insured knows the direct writer has the best overall program and periodically has a broker offer competitive quotations. The second is preferred in companies where the broker plays a dominant role in the risk program and coordinates all insurance.

The broker's fee for acting as intermediary with a direct writer is often based on the net premium (10% is common). Unless special services such as loss prevention are included, this is often excessive.

The direct-writing company has built-in sales expenses that agency-writing companies do not, and the port should not have to pay twice for sales costs. Basing the fee on premium is a disincentive for the broker to push for the lowest possible cost. It is better for the port to negotiate a flat fee with the broker based on the broker's presentation of precisely what is to be done and the amount of time and expense entailed. Usually, this will be somewhat less than 10% of premium, unless extensive services are involved, such as engineering or claims adjusting.

Fees Versus Commissions

The issue of whether brokers should be compensated on a percent of premiums or on a professional fee related to services rendered generates spirited debate. Most brokers prefer commissions because:

- Commission income is usually higher than the fees the broker believes could be negotiated.
- The broker's remuneration is not readily visible to the insured and thus is not subject to cost-cutting attacks.
- Brokers are often unable to cost account their time and expenses in a way needed to develop reasonable but not excessive fees.
- If salary and overhead of a major account executive are translated into an equivalent hourly fee, it may be embarrassingly high.

The anti-rebate laws in many states restrict brokers. A few states (Michigan, for example) do not license brokers and, therefore, do not permit fee-based compensation.

However, in most instances, brokers can negotiate any commission, down to zero on some lines. Liability is normally more flexible than property, allowing the desired fee to be attained.

Risk managers, by a large majority, favor the negotiated fee over commissions. Some reasons are:

- Many believe commissions are too high.
- Fees give more flexibility in paying for services needed and omitting services not needed.
- Fees eliminate the financial incentive to sell more insurance.
- Fees are more professional since compensation is based on service rather than on the amount of a product.
- Fees generate better cost accounting and greater broker efficiency.

We should mention, however, that a number of quite sophisticated risk managers are satisfied with the commission arrangement and even believe they can get more work from the broker under commissions than they would under a fee.

Commission Income

The amount of commission received by brokers varies widely. In most property and liability lines it lies between 10% and 15%. Agents generally receive a little more than brokers and in some states and in some lines, such as bonds, specific commissions go to 20% and even 30%.

Every port risk manager should know what his or her broker is receiving in compensation for the account. Some risk managers say this does not matter to them as long as they believe total costs are in line. However, as in any field, knowledge is preferable to ignorance. It is surprising how often a little information can raise questions or suggest actions that would otherwise be overlooked.

Some brokers refuse to divulge their income, using the analogy that a store does not tell you how much they mark up their goods. This is a merchandising approach, not a professional approach sought by the better brokers. The more professional firms will rarely refuse to tell their clients what they are receiving; they know they are worth it.

Access to Insurance Markets

The insurance market is composed of hundreds of insurance companies, each specializing in different types of insurance. Even when brokers work on a fee basis, they rarely can be totally objective with regard to market utilization because insurance marketing is a highly individualized function. The largest brokers theoretically have access to the entire marketplace but in practice use only a fraction of the sources for most placements.

Close relationships are developed between broker and market personnel. Some markets are therefore used much more heavily than others, not only because of the personal business relationship, but also because of the broker's need to deliver large amounts of business to insurers in order to develop rapport and leverage.

At a minimum, the port's selected broker should be familiar with the London market, the U.S. insurance exchange, and surplus lines firms, as well as most local insurers. ("Surplus lines" is insurance not usually available from admitted carriers that is written with non-admitted companies.)

No matter how large the brokerage firm, it will not be able to establish a close working relationship with all insurance companies. Each broker will have insurance companies with which they can produce better results than others. Many different factors may influence the broker's ability to produce good results. Brokers have varying degrees of influence with individual insurance underwriters. Size of the broker is one factor in market clout, but overall size worldwide may not be as important as volume of placements of a particular type. A more important factor is the broker's reputation for character and ability, which is quite independent of size. Sometimes, a smaller broker has a larger volume of a specialty line of coverage than a larger broker, thus obtaining greater expertise and leverage. The size of a brokerage firm should have little to do with the decision except as it affects the availability of specific services.

Test your program periodically through competing brokers or consultants. Do not open the program to direct competition at every renewal but keep enough contact with competing brokers to be aware of trends and new developments. Whatever your insurance sources, do not let them become complacent.

Other Functions

Some other functions the broker may perform include:

- Check policy wording and accuracy. Each policy, as it is received from the underwriter, should be read carefully to see that the wording actually provides the desired coverage. Mistakes are common and should be corrected by the broker before the policy is passed on to the port. Brokers often become careless with this function, and even when they are not, the port should read each policy as it is received. Note that in *Parre & Sons vs. Campbell, 196 SE2d 334,* the judge stated that the insured had a duty to read the policy and should not rely on the agent.
- Fire protection and safety. Some of the larger brokers have staff specialists, including engineers, to make inspections, advise on new construction, analyze fire rates, and review recommendations from insurance company inspectors. Some of this work is excellent but a great deal is a wasteful duplication of effort. For instance, for a company with adequate in-house fire protection engineers, the use of a broker's engineer may just pyramid the bureaucracy. Only you can decide what is needed. Such services should be performed only when they serve a purpose.
- Valuations. A potentially useful function of the broker is assistance in establishing insurable values. While this process does not give very accurate results, it is often adequate for insurance needs. Even when the broker does not perform the actual valuation, he/she can be the source of data for updating old valuations.
- Draft policy wording. The broker's ability to word a policy properly can be important to

the port. Wording must be tailored to fit the risk, yet still make it acceptable to underwriters. The broker must know how to structure unique wording to stand the test of a large loss but also understand when standard language is more effective.

- Audit reserves. General liability and workers' compensation cases often drag on for years. The underwriter estimates each case to its ultimate cost, and the reserve (the total estimate minus amounts paid to date) is charged to the insured in the year the loss is incurred. Two points require special attention. First, the reserve amount should be reasonable and adjusted as conditions change. Second, the reserve should be taken off the books as soon as the case is closed. Underwriters are not always meticulous about this. The broker can be quite helpful in this regard. On some large accounts, the broker may actually audit the procedures of the claims adjusters, checking timeliness of the adjuster's response and reports, judgment in settling or resisting, follow-up on subrogation potentials, and general effectiveness.

- Verify rates and premiums. Most policies utilize rates established by rating bureaus, sometimes with complicated rating formulas. Premium calculations can be involved. Errors occur which the broker can detect.

- Identify and evaluate risks. All brokers must be thoroughly conversant with the port's activities to help identify and measure risks. Needs vary greatly.

- Collect losses. Brokers can help an insured collect losses, but abilities vary, as do needs. Some straightforward settlements require a claims adjuster who has more expertise than is possessed by most brokers. Use of a good public adjuster (one who works only for the insured) may be preferable.

- Computer services. Some larger brokers offer risk information management services ranging from loss and claims analysis and insurable value printouts to probability forecasts. Check these carefully to see that they represent the most efficient way to achieve your goal and do not lock you in to one broker's services.

Consultants

A survey conducted by Tillinghast and the Risk and Insurance Management Society in 1997 found that the cost of risk at U.S.-based organizations dropped in 1996 to $5.70 per $1,000 of revenue, from $6.49 in 1995. Cost of risk has been steadily declining since 1992, when it peaked at $8.30 per $1,000 of revenue. Declining workers' compensation costs and reduced property losses are seen as the main causes for the improvement.

This is a very different environment then the one ports faced in the 1980s and early 1990s. In that period, risk management and insurance costs were very significant for ports worldwide, which led to the development of complex alternatives not previously available. Some of these alternatives, including self-insurance, retrospective rating plans, and pooling, were advanced by or required the expertise of independent risk management and insurance consulting organizations. As a result, port management became increasingly aware of the value of independent consultants, and many of the port/consultant relationships that were initiated fifteen or twenty years ago continue today, despite recent declines in cost of risk.

To be truly independent, these consulting organizations should have no agency, insurer or insurance service provider affiliation, otherwise there could be a potential bias.

All types of organizations including governmental entities, service enterprises, nonprofit organizations, and manufacturers need to know how well their risk management and insurance requirements are being satisfied, what alternatives are available, and if and how their present insurance and risk management programs can be improved. Risk management consulting services are available from many sources including insurance companies and independent brokers, agents, consulting firms.

As is the case with virtually all consulting firms, there are some good firms, some bad, and some in between. Be as careful choosing a consultant as you would your broker. The experience and capabilities of risk management consulting firms vary. General categories of services that might be offered by firms include:

- Audits of an organization's exposure to loss and insurance coverage to ensure that existing programs are adequate and appropriate for the organization.
- Insurance specifications and assistance in marketing the insurance programs of an organization.
- Feasibility studies and assistance in developing and implementing an ongoing maintenance of captive insurance companies, self-insurance plans, or other cash flow loss funding techniques.
- Actuarial evaluation of self-insurance plans or the reserves of captive insurance companies.
- Claims audits and evaluations of self-insurance programs.
- Evaluation of the administration of an organization's risk management and insurance program.

Generally, in seeking assistance from a consultant, it is advisable to first define the particular project and the objectives that the port hopes to achieve by undertaking the project. Sometimes it is helpful for a port to talk to a consultant, in its efforts to formulate and define the project's scope. The consultant should then be requested to provide a proposal. The proposal may be a formal written document or merely a verbal agreement worked out in a meeting with the consultant. Included in the proposal should be a general outline of the work and methodology to be used to accomplish the work.

The port may also request that the consultant's proposal provide a breakdown of the number of man hours projected for the project, a list including resumes of the individuals who will participate in the project, hourly rates or fixed fees to be charged, any expenses which may be in addition to the fees, and a list of references.

INSURANCE PURCHASING

A port may adopt any of several approaches to the placement of insurance contracts. This section of the *Guidebook* describes possible approaches and discusses their advantages and disadvantages.

In most cases, the available approaches are:

- Competitive bidding based on rigid specifications.
- Competitive bidding with the potential for accepting alternative proposals by innovative carriers, agents, or brokers.
- Informal bidding without specifications.
- Placement through a designated agent or broker on a more or less permanent basis, with the designated agent or broker responsible for providing the best available coverage terms, conditions, and pricing.
- Placement of insurance through an agents' association, with responsibility on the part of the association to provide best coverage terms, conditions, and pricing for the port.
- Periodic bidding, coupled with interim negotiated renewals.

Competitive Bidding Based on Rigid Specifications

Advantages

Under a system of competitive bidding based on rigid specifications, the port is likely to secure the lowest cost for the specified program, with minimal confusion in comparing alternatives.

Disadvantages

- Competitive bidding on every insurance contract, including renewals, may be counterproductive in several ways, particularly for ports regarded by insurance companies as unfavorable risks.
- Qualified underwriters may be discouraged from bidding because the port's target pricing allows little opportunity for profit. This is particularly true if the port invites an unlimited number of bidders to quote.
- Where there are a limited number of markets for a particular type of insurance coverage, one or more of those markets may be lost as a result of uncertainty about the port's designated broker or agent. Most insurance carriers react negatively to multiple approaches by several brokers and agents. At

best, the underwriter will give the same quote to every broker or agent who requests a proposal on the account, leaving the port in a quandary as to which of two or more brokers or agents to finally recognize if that quote turns out to be lowest. Alternatively, the underwriter may recognize the first broker or agent to submit the risk, and that broker or agent may be the weakest, or simply may have tied up all the markets at the earliest opportunity, or the carrier may decline to quote at all, until a broker of record is designated. This places the port in the middle of an uncomfortable bidding situation.

A pre-bid company allocation system often will reduce confusion inherent in the open bidding process. Under this system, the port asks interested agents or brokers to submit, by a designated date, a sealed list of insurance carriers they want to use in quoting on the insurance in question, in order of preference. When the lists are submitted, the envelopes containing them are noted as to date and time of submission. On the designated date for their opening, they are examined and insurance companies or company groups are allocated on the basis of the following rules:

- Carriers currently writing the coverage being bid will automatically be assigned to the current broker or agent of record.
- Each agent or broker is allocated one company until each has been awarded one, if possible. Following the first round of awards, a second company is awarded to each, to the extent possible, then a third, fourth, etc., until requests are exhausted.
- Where conflicts exist by reason of more than one agent seeking the same company in the same round, these can be resolved using predetermined criteria, such as time of request receipt or highest agency volume or share transacted with the company in question.
- When any company in a "group" has been awarded, that group is closed to any other award. Identification of members of a company group can readily be made from several sources, such as A.M Best, or by a consultant.
- After all requested markets have been assigned, the port provides a letter of record to each agent or broker addressed to the insurers. The letter states that the broker has sole authority to represent the assured in this insurance bid.
- Reinsurance markets should not be allocated but should remain completely free for access by all primary carriers.
- After the initial allocation of markets is completed, agents or brokers presenting later requests for markets should have those requests honored on a first-come/first-served basis, providing the allocation of the insurance company requested or any sister company in the same group has not been made.

The above procedure is fair and equitable, eliminates confusion in the insurance marketplace, and ensures that the port receives bids from all interested carriers. It also prevents brokers or agents from "blocking" the market or employing other strategies that may be detrimental to the port.

There are other disadvantages to repeated bidding of insurance contracts at frequent intervals. The insurance carriers will tend to build into their quotations the entire cost of setting up services for the account (costs that they might otherwise absorb over several years). The carrier will have to project a sufficient margin over expected losses to diminish the probability of an underwriting loss, since the carrier will not be able to count on future years' profits on the account offsetting a first year loss.

There are also high costs involved for the port, not only in terms of the time and expense involved in writing specifications and evaluating bids but also the time and expense of getting new insurance carriers acquainted with the port operations, conducting inspections, shifting claims reporting procedures, etc.

Finally, rigid specifications can limit the benefit that might be drawn from new or innovative approaches on the part of carriers, agents, or brokers.

Competitive Bidding With Alternate Options Acceptable

Advantages

This approach is likely to produce the lowest costs for a given insurance program. It also allows carriers, agents, and brokers to be creative and innovative in designing and marketing the port's insurance program.

Disadvantages

Comparisons of bids will be somewhat more difficult, but if each carrier, agent, and broker is required to bid on the same basic program, the port can make initial comparisons on the basis of that program. Then, alternate proposals can be compared with the best of the basic program proposals. This approach may require a greater degree of sophistication, and the advice of an insurance consultant may be desirable.

This approach, if employed for every insurance award, involves the same disadvantages as those listed earlier, i.e.:

- Loss of interest by qualified carriers
- Possible confusion in the insurance marketplace.
- High initial costs of both insurer and insured in any changes of carriers.
- Padding of premiums by the bidding carriers against loss contingencies.

Informal Bidding Without Specifications

Advantages

This approach usually involves letting all interested carriers, agents, and brokers bid by examining the port's existing insurance policies. It eliminates the cost of preparing specifications and may stimulate innovation and creativity in coverages and rating plans.

Disadvantages

Informal bidding without specifications shares the four previously cited disadvantages of frequent bidding. It also makes apples-to-apples comparisons more difficult and is unfair to the incumbent carrier, who becomes a target for all of the competitors.

Placement Through A Designated Agent Or Broker

Advantages

This arrangement enables the broker or agent to develop in-depth knowledge of the port's operations, needs, and insurance program. The agent can establish a truly professional relationship with the port, as part of the port's "family" of advisors. One argument in favor of this approach is that the port does not seek bids on legal services, so it should not seek bids on other professional services.

Cost of changeover is avoided by long-term relationships with the agent, and probably with the insurance carriers. Time or expense to draw up specifications or evaluating bids is eliminated, or greatly reduced.

Disadvantages

Brokers or agents in the situation described above may do an exceptional job and be valuable members of the port's team, or they may take the port's account for granted.

Not all agents or brokers who have a "lock" on an account take their client for granted, but some undoubtedly do. These agents or brokers may shelve the problems or challenges of a locked-in client in favor of those of less-secure clients. When seeking renewal quotations, these agents tend to go along with whatever the existing market offers, rather than creating more work by soliciting bids from other markets. As a matter of fact, agents who do a thoroughly competent job of getting quotes from various markets on existing accounts will be viewed unfavorably by the incumbent carrier and may impair their relationships with that carrier, particularly if they move the business to another carrier. On the other hand, other carriers will view them unfavorably if quotes are repeatedly solicited without realizing any business. Most agents will take the easy way out and recommend a renewal proposal from the existing carrier, unless it is outrageous.

Given these tendencies, unless a detailed and objective evaluation indicates that the incumbent broker or agent is performing exceptionally well, competition at intervals of four to six years will usually be beneficial to the port.

Placement Through An Agents' Association

Advantages

For a political body, placing insurance through a local or state insurance agents' association will avert accusations of favoritism. All members of the association share in the commissions, after the agent servicing the account is paid a portion of the commissions off the top. In some cases, the agents' association will donate the commissions, other than the service portion, to a public service project or charity.

Disadvantages

While averting accusations of favoritism, this process can be the most expensive.

First, working through an agent's association frequently means that the port receives very little attention. The agent assigned to handle the port is only receiving a share of the commissions, and as such, will not devote as much time to the port as to a full-commission client.

The other agents in the association receive commissions in the name of avoiding favoritism. These commissions ultimately come out of the port's pocket and pay for little or no service. In fact, the port is paying the agent's association to prohibit its members from competing.

The agents' association approach stifles price competition and discourages innovation. There is no motivation, other than civic duty, for the servicing agent (or civic insurance committee, etc.) to design new plans or programs. Furthermore, the servicing agent (or committee) will be strongly inclined not to change the status quo. If the servicing agent advises the port to assume a larger deductible, drop its vehicle collision insurance, or use a reduced commission specialty market, the agent will be forced to explain to other association members why their commissions were reduced.

Another undesirable situation can exist when the agents' association parcels out shares of the port's coverage to its individual members. In this scenario, the port ends up with numerous policies, and the workload associated with accounting, policy examination, or collecting small losses is much greater than it would be under a consolidated program.

Of all the approaches available to a port, the handling of insurance by the agents' association may start off with the highest ideals but can end up with the worst service and pricing. It may also lead to antitrust complications.

Periodic Bidding With Interim Negotiations of Renewals

Advantages

Under this approach, the port awards insurance contracts through the process of competitive bidding periodically, such as every six years, and negotiates renewals with the same agent and carrier in the interim.

This has the advantage of keeping competition alive, with resulting reductions in premium and with innovation in coverage arising out of the competition. At the same time, the turnover of insurance agents and carriers is not so great as to introduce a recurring changeover cost to either the port or the insurer. The insurer can count on a moderately long-term relationship so that premiums need not be padded to absorb all loss contingencies within the immediate policy period.

Furthermore, the port can avoid accusation of favoritism under this approach if (1) rules for good bidding procedures are used at the time of competition for the insurance, and (2) certain guidelines are followed in the interim negotiation of insurance renewals.

Disadvantages

This process can create confusion in the insurance marketplace, as described earlier in the discussion of competitive bidding. The port can avoid confusion by allocating markets as described in that earlier discussion.

The agent and insurance carrier awarded the insurance may believe that they are "locked-in" for the next six years and take the port's account for granted. This tendency will be reduced by the realization that any "lock" will not be permanent. Furthermore, the tendency will be eliminated if the port adopts guidelines specifying the procedures for interim renewals. These guidelines should include:

- The port regards the services of the carrier and agent to be satisfactory.
- The port believes that the insurer has satisfactorily adjusted and paid claims.
- The company and agent have fulfilled all commitments made in their initial proposal.
- Renewal quotations are received on the subject insurance at least 60 days prior to expiration and do not contain any unjustified rate or premium increases.
- The decision to extend coverage beyond a total term of six years is agreed to by two other designated individuals in the port's organization.
- The insurance agent and carrier agree that the port reserves the right to seek competitive bids and will provide data on claims, claim reserves, and losses paid, in as complete a form as possible, within 30 days from the date of request.

Named Insured

A port is well advised to have the named insured wording for each of its policies phrased in as broad a fashion as possible, so that coverage will automatically apply to existing or new operations, ventures, boards, committees, acquisitions, etc.

Consolidation

Where possible, a port will generally find it advantageous to consolidate a single general line or type of insurance under one overall contract instead of dividing the insurance among several contracts and coverages. A single policy with one insurance company has many benefits:

- Allows for the efficient and effective administration of the insurance program in that there is only one renewal operation, one policy, one term, etc., thus affording greater ease in handling.
- Lessens the possibility of having an uninsured loss because of confusion as to which of several separate policies apply.
- Enables a port to marshal purchasing power that frequently results in securing concessions in premiums, policy conditions, or borderline claims.
- Creates a sufficient premium volume to cushion the effects of a bad loss trend that might be disastrous if separate smaller policies with several insurers are used.
- Greatly facilitates the uniform application of coverage, limits, and other broadening features.

Cancellation Provisions

The usual cancellation provisions of insurance policies permit the insurance company as little as five or ten days' notice before coverage cancellation. Typically, this is not sufficient time for a port to effectively replace coverage of a large and complex nature. For this reason, it is generally advisable to have standard policy cancellation provisions of all policies revised to provide at least 60 days and, preferably, 90 days written notice. Similarly, the coverage termination requirements should be extended, where possible, to cover non-renewal in addition to midterm cancellation. This will provide the time necessary to competitively remarket the port's program.

Anniversary or Expiration Dates

Anniversary or expiration dates of a port's insurance policies can be sometimes scattered throughout the calendar year. This can significantly complicate policy administration and in some instances result in coverage gaps. Ports should attempt to use common anniversary dates whenever possible.

In some situations, it is practical to place all policies on a common date. In other instances, it is preferable to place similar coverages, i.e., all property or all liability, on common anniversary dates.

When choosing common anniversary dates, it is generally advisable to avoid calendar year end or July 1 expiration dates, to avoid the congestion on many underwriters' desks at these times of the year. Underwriters' preoccupation with renewing other accounts may result in inadequate attention being given to the port's program. It is also advisable to avoid the end of the port's fiscal year, since preoccupation with other matters may prevent adequate attention being given to insurance coverage at that time.

Marketing the Port's Insurance Program

In a risk management context, "marketing" describes the process of submitting information to underwriters about the port's risk profile and negotiating to obtain quotations for insurance coverage and costs. The focus of the marketing effort should be to communicate the nature of the risk. There is a strong correlation between the quality of the submission presented on behalf of the port and the quality of the underwriters' proposals. Yet the Professional Insurance Wholesalers Association estimates that fewer than five percent of submissions to underwriters are of the highest quality.

The marketing process provides an opportunity for the port risk manager, the agent or broker, and the underwriter to act jointly to develop an optimal insurance program for the port.

The marketing and decision-making process should actively involve the port's risk management staff. Insurance is a business of utmost good faith. No one is better qualified than the risk or financial manager to describe the port's risk management culture, exposure profile, tolerance for risk, coverage needs, and organizational goals. Face-to-face discussions between the port, the underwriters, and the agent or broker can be very effective in devising a program that best meets the port's objectives. An underwriter is more likely to respond affirmatively to requests from a port risk manager known personally and with whom one has developed mutual trust and respect.

The risk manager must be diligent in learning the intricacies of the marketing process. This knowledge prepares the risk manager to most effectively support the efforts of the port's agent or broker and to approach direct markets without a broker, when this approach is favored.

Marketers of the port's account, whether the agent/broker or the risk manager, must demonstrate in-depth knowledge of the port's risks. Based on this information, the marketer must prepare high quality specifications that will be transmitted to selected underwriters to solicit quotations.

The process of selecting underwriters to receive the port's specifications is a critical aspect of the marketing process, and is discussed in more detail in the Insurance Company Solvency Ratings section on page 2--24.

Generally, the marketer will hold preliminary discussions with several underwriters to gauge their degree of interest in the port's account and their ability to provide needed services. After identifying a subset of underwriters who offer the best potential for responding positively to the port's submission, the marketer will submit specifications to these underwriters and deliver an oral presentation in order to answer questions and "sell" the port risk. As mentioned earlier, the risk manager's participation in the oral presentation can be effective in communicating the essential character of the port.

After receiving quotations, the risk manager and the port's agent or broker will identify areas of concern and negotiate with the underwriters to finalize details of coverage.

Timing

A full-blown marketing effort can cost $100,000 or more. The largest cost element is the time spent by the risk manager, management, support personnel, and the agent or broker. Marketing should not be repeated every year, or even every other year. The underwriting marketplace does not look favorably on accounts that shop their program year after year.

Most ports market their accounts on a three to six year cycle. However, the risk manager and the port's agent or broker should continually keep a finger on the pulse of the marketplace, to identify trends, opportunities, changes, options or challenges that may impact the port's placement, and that may require immediate attention. In addition, the risk manager must regularly assess the adequacy of coverage limits, terms and conditions, and remediate as necessary to ensure ongoing effectiveness.

Market

Prudent selection of underwriters is critical to the success of the marketing process. Underwriters should be selected based on their ability to meet certain qualifications established by the port. Specific requirements will vary among ports, but some general guidelines include:

- Breadth of coverage offered.
- Ability to manuscript policy wording to cover the port's unique exposures.
- Position in the marketplace, i.e., primary insurance, excess and surplus.
- Access to or ability to provide reinsurance, as needed.
- Ability to work with a captive insurance company. (See Glossary, page A--2.)
- Flexibility in offering funding alternatives, such as guaranteed cost, retrospective or swing plans, finite risk programs, self-insured retentions or deductible plans.
- Willingness to work with a third-party administrator on an unbundled basis.
- Depth and scope of insurer's risk control, claims and other services.
- Preferences of the port's management or commissioners.
- Degree of financial and management strength.
- Solvency ratings.

Perhaps the most important criteria for selecting underwriters to participate in the port's insurance program are their reputation in the marketplace, their ability to provide essential services, and their financial stability. The insurer's most important role is to indemnify a port for losses that it has elected to transfer under the insurance contract. A less critical, but still important function is for the underwriter to provide risk control, claims, and other risk services.

Ports should view their risk management from a total cost of risk perspective. A low cost of risk transfer may be more than offset by increased claims costs. The optimal insurance program provides a portfolio of services, program design and pricing that minimizes the port's total cost of risk within the constraints of the port's risk tolerance. The portfolio for a port that desires guaranteed cost insurance coverage would differ markedly from that for a port with a $1 million annual aggregate retention.

Insurance Company Solvency Ratings

Perhaps the most critical factor in selecting an insurer is its financial soundness. Ports that fail to recognize this may wind up putting their faith in insurers that ultimately fail or abruptly cancel coverage. When the port's insurer becomes insolvent or cancels coverage unexpectedly, the risk manager is forced to find another insurer, often within a very limited time frame. A hurried marketing effort may lead to inadequate discovery with respect to the carrier's services and financial strength, inferior scope of coverage, and uncompetitive pricing.

Before purchasing any type of insurance policy, the risk manager should verify that the carrier the port is considering doing business with is legitimate, solvent, and reliable. The various state insurance departments are an excellent resource for information on whether a company is licensed to do business in a particular state. The port's agent and broker, and the risk manager's professional peers, can provide recommendations and referrals of their insurance companies.

The reports provided to the various insurance commissioners are possible means of evaluating insurers. However, these reports tend to be too complicated and time consuming for even the most experienced risk manager to evaluate. Perhaps the best method for determining the qualifications of a particular insurer is by using independent ratings services. Insurance companies are rated by five independent services: Standard & Poors, Weiss Research, A.M. Best Co., Duff & Phelps, and Moody's Investor Services. Each service provides ratings on a different letter scale.

See page 2--26 for brief descriptions of the factors used by the four major rating services to review insurance companies.

Figure 5
Insurance Company Ratings

GENERAL RATINGS CATEGORIES	A.M. BEST	DUFF & PHELPS	MOODY'S	STANDARD & POOR'S
Superior	A++ A+	AAA	Aaa	AAA
Excellent	A A-	AA+ AA AA-	Aa1 Aa2 Aa2	AA+ AA AA-
Good	B++ B+	A+ A A-	A1 A2 A3	A+ A A-
Adequate (but could be vulnerable)	B B-	BBB+ BBB BBB-	Baa1 Baa2 Baa3	BBB+ BBB BBB-
Below Average	C++ C+	BB+ BB BB-	Ba1 Ba2 Ba3	BB+ BB BB-
Weak	C C-	B+ B B-	B1 B2 B3	B+ B B-
Substantial Risk	D E	CCC	Caa Ca C	CCC
Under Order of Liquidation	F	DD		R

Ports should consider doing business only with insurance companies with the following minimum ratings:

- Standard & Poor's: AA
- Moody's Investor Services: A-
- Weiss: B-
- A.M. Best Co.: A+
- Duff & Phelps: AA+

The port's agent or broker can provide rating information for companies being considered to participate in underwriting the port's insurance program. The risk manager can also look up the company in the reference library or by purchasing a rating through one of the following services.

Best's Insurance Reports may be available in the port's risk management reference library. Best also has a "900" number (900-424-0400) – for $2.50 a minute the risk manager can procure a rating by calling with a company's ID number. To get a company's ID number, call Best at 908-429-2200.

Weiss Research provides reports over the phone (800-289-9222). The costs are $15 for an over-the-phone rating, $25 for a short written report, and $45 for a longer written report.

Ratings from Duff & Phelps can be found in books called National Underwriter Profiles (800-543-0874). National Underwriter Profiles sells three books – health and accident insurance companies, life insurance companies, and property and casualty insurers.

Standard & Poor's ratings are also available in National Underwriter Profiles.

A.M. Best and other independent rating services do not rate many insurers. This may be because the insurer is not licensed in the United States, or because limited time has elapsed since its formation. The risk manager will have to evaluate unrated companies based on the size and quality of their trust funds, their tenure in the insurance market, their reputation, etc. The port's agent, broker, or consultant can be a valuable ally in the evaluation process.

In some instances, a port may safely deviate from a minimum rating from the independent rating services. Factors to consider when contemplating a deviation include:

- Nature of the Risk – For those exposures where losses become known and settled within a relatively short period of time, such as for property losses, a port need only be concerned with the immediate financial condition of the insurer. For those losses where claims may be slow to surface and can be slower to settle, such as in general liability where it may take ten years or longer to settle claims, a port must be more concerned with the long term stability and solvency of the insurer. Generally, this requires a port to be more conservative in selecting insurers.
- Size of Risk – The size of potential losses enters into the selection process as well. Obviously, the risk of an uncollectable loss such as insuring a $50 million grain elevator with a property insurer which has policyholder surplus of $1 million may be much greater than insuring with a carrier that has a surplus of $100 million.
- Insurer Affiliation for Reinsurance – Insurance companies may be reinsured by larger, more financially stable insurance companies. An evaluation of reinsurance arrangements may indicate the risks are not as severe as they may appear on the surface. A carrier may also be owned by another organization. A parent company may pay additional funds into the subsidiary should it experience financial difficulty. While it may not be legally required, the parent company may elect to do so in order to maintain its reputation. While much faith should not be placed in such a situation, a port may wish to consider this as part of its evaluation and selection process.

Time Needed For Marketing

Smaller ports may be able to conduct the marketing process in little more than a month. A major marketing effort for a larger port can require six months, or more. This includes:

- 6 weeks to prepare marketing specifications.
- 8 to 12 weeks to negotiate with underwriters.
- 2 to 8 weeks to market excess layers, depending on the structure and coverage desired.

These tasks can be completed in four months, but a broker can usually do a better job with more lead-time, particularly at year-end, when there is a high volume of renewals. The process may also require more time when the market is tight.

If the port is working with more than one broker, the risk manager should start informal discussions at least six months before expiration of the policy. To keep the process manageable, the port should work with no more than four brokers. When markets are assigned, each broker should be provided with the same backup information. An effective method of communicating this information is a loose-leaf notebook with tabbed sections covering locations, values, payroll, sales, vehicles, risk management personnel, safety programs, 5-year loss history, discussions of major losses, and financial statements.

Marketing Specifications

The port's broker and risk manager will generally collaborate in preparing the written specifications. This task is time-consuming and costly. However, quality specifications can be reused in the future with basic updating. When updating specifications, be diligent in avoiding carryover of previous errors.

General Points

- Be concise and to the point. Include summaries and tables, but do not overlook the need for complete disclosure.
- Prepare specifications in such a way that the underwriter can read a little or a lot. In other words, make it brief so the underwriter does not get lost in detail. Use lots of headings and short paragraphs. Place all support material, charts, exhibits, etc. in an appendix. Highlight important points.
- Move from the general to the specific. For example, begin with total losses incurred by line, follow with a tabulation of individual losses and end with an analysis of large losses and measures taken to prevent a recurrence.
- For efficient formatting, write separate sections on organizational structure, financial statements, operations, properties, liability exposures, etc. This enables the port to substitute or delete certain sections for workers' compensation, property, liability, or other underwriters.
- Be consistent in oral presentation and written specifications.
- Have one or more colleagues proofread the specifications for errors, discrepancies, and clarity.

Agency Company Organization for Research & Development (ACORD) or Carrier Application Forms

ACORD and carrier application forms are not designed for large accounts and should be used only as a guide.

Format

Exposure Analysis

- Quantified underwriting data: revenues, payrolls, advertising expenditures, etc.
- Products which develop exposures.
- Incidental or umbrella exposures:
    - Care, custody and control
    - Professional liability
    - Federal acts
    - Watercraft and aircraft
- Contracts and leases under which the port assumes liability.
- Other perceived hazards.
- Manual premium calculations if available.

Assemble data in a binder marked with the port's name and logo. Begin with a short cover letter stating what it is, for whom and from whom – including the port's address, telephone and fax numbers. Describe briefly the coverage sought, special conditions and terms, major issues associated with the exposure, and the target date for the coverage inception. Use a table of contents and tabs for the various sections. A typical table of contents for the property/liability proposal follows below. Date all pages for easy reference when the specifications are revised.

Liability Underwriting Specifications

- Description of Operations.
- Overview of operations for the port and each division and branch. Include organizational chart, if appropriate.
- Financial statement.
- Annual report.
- Description of the Risk Management Department.
- Risk management policy statement, safety manual, and employee benefit booklet.
- Organization and structure.
- Functions provided – cost allocation, claims handling, loss prevention, etc.
- Contract Services.
- Loss Analysis.
- Description of claims handling: insurer, contract adjuster or in-house.

- Total incurred losses by line of coverage. Show the last five years, broken down by paid and reserves, bodily injury and property damage, auto and general. Also, break out products, malpractice, or any other special exposure.
- Description and analysis of all large (those over $10,000) losses, even if not yet paid.
- Loss stratification by line of coverage and in total. Exhibit should show losses at varying levels depending on size of risk, for example, losses from 0 to $10,000, $10,001 to $50,000, $50,001 to $100,000, and over $100,000.
- Loss forecasting and retention analysis. Trend future losses or use regression analysis to project probable future loss levels.
- Head sections with a summary, if appropriate.
- Insuring form desired (policy language, e.g., London, U.S., and universal)
- Specify Insurance Services Organization (ISO), ISO-modified, or manuscript form. This will help avoid misunderstandings and minimize the need for post-marketing negotiations. Provide as much specific detail as possible. Better still, specify the form number and edition date or attach sample copies.
- Manuscript forms may sometimes be more desirable than standard forms. However, insurance contracts are contracts of adhesion. This means that courts usually resolve ambiguities in favor of the party that did *not* prepare the wording.
- Risk managers are advised to convey their coverage needs to the broker or underwriter but leave the actual policy drafting up to them.

Property Underwriting Specifications

Certain basic information is essential regardless of whether the port is seeking property or liability coverage. If the port is seeking both from the same underwriter, repetition of the same data is unnecessary. If the port is approaching different underwriters, the same outline should be used as for liability specifications above in regard to:

- Description of Operations
- Description of Risk Management Department
- Change the Exposure Analysis to:
  - ➢ Basis of values: replacement, market or actual cash value, plus date of valuation.
  - ➢ Total values by location and by line of coverage. Give source and date of valuation.
- Details of construction and hours of occupancy.
- Maximum probable loss and the amount subject (maximum possible loss) by location.
- Individual fire protection reports, pictures and diagrams for large locations.
- Values for property in transit and unscheduled locations.
- Business interruption worksheets.
- Other time element value estimates.

Special Underwriting Data

Many ports have unusual or, for the layman, hard-to-understand exposures. These must be carefully explained. Obscuring or overlooking material exposures may, at best, save some premium in the short run. However, it may cause long-run adverse consequences, such as cancellation, nonpayment of losses, litigation, or stiff re-pricing. Specifications should include a candid discussion of the following:

- Product liability
- Unusual liability
- Severity analysis
- Special perils
- Miscellaneous

Products Liability

An obvious product exposure left undefined creates uneasiness in the mind of the underwriter, which tends to increase when technical brochures of the product are reviewed. Consequently, to be on the safe side, the underwriter will charge more for the exposure than may be necessary. With adequate explanations, this can be avoided. Obtain the help of operational and technical personnel and assemble the following data, in layman's language:

- Products manufactured or distributed
- Ultimate user: original manufacturer or general public
- Current annual sales, both U.S. and non-U.S.
- Total units currently on market
- Discontinued units
- Number of years that product has been on market. Include brochures and catalog
- Normal life of product
- Principal customers, in percentages
- Risk control
- Safety methods
- Engineering R&D
- Quality assurance
- Instructions, warnings, labels
- Installation and maintenance
- Contractual aspects
- Defense
- Liability resulting from acquisitions and mergers

Unusual Exposures

Standard umbrella applications do not inquire into unusual or catastrophic exposures, such as concentration of people or valuable property, or fire and explosion hazards inherent in operations. Many applications do not deal with care, custody and control risks, Jones Act and other Federal exposures, professional liability, aircraft and watercraft, or protection and indemnity.

Frequently, the umbrella excludes these exposures, so the umbrella application does not address them. If the port requires any of these coverages, explain and quantify the exposures. Whenever possible, discuss mitigating factors that reduce the risk, such as fire protection systems or specific loss control measures.

Severity Analysis

Property underwriters are interested in the maximum probable loss (MPL) the port may experience. This would be the maximum loss at the port's largest location under most circumstances. Underwriters also want to know the amount subject (AS), which is the maximum possible loss if all protection facilities were to fail. The terminology used by engineers may differ. Be sure the fire protection engineer who determines these figures for the port defines the terms.

For the underwriter, these figures are important. They spotlight potential catastrophic loss exposures that may exceed an underwriter's net capacity. They also pin down anticipated severity by location rather than leaving the matter to the underwriter's guesswork.

Include current fire protection reports, diagrams, production flow charts, photographs of the facilities, and the latest and original inspection reports.

Special Perils

If the port requires special coverage for earthquake, flood, collapse, or windstorm, supply the underwriter with back-up information: concentration of values at each location, with a breakdown of values in basement and lower floors in regard to flood risks; geographical exposure to the peril; protection and safety measures existing or to be taken in regard to those perils.

Miscellaneous

- Spell out any significant transit exposures, subcontractors work, or bailment situations, and describe any hard-to-replace die patterns, molds and machinery parts. Equipment manufactured overseas may cause lengthy business interruption or extra expense.
- Specify any special considerations for placing high limits with facultative reinsurers (reinsurance of individual risks as contrasted to treaty reinsurance where the reinsurer accepts blocks of risks). Otherwise, loss of some insurance markets and higher premiums may result.
- Explain the existing program and, possibly, also the present premium. This is largely a matter of knowing the underwriter. Be consistent; if this information is provided to one underwriter, it should be provided to all.

- Offer the underwriter the opportunity to visit the port's facilities or talk to management.
- List additional available information, such as safety and quality control manuals, risk management handbooks, manufacturer's procedural manuals, or in-house directives regarding loss prevention and claims.

Marketing the Excess Layer

After the primary program has been arranged, excess coverage will fall into place more quickly.

The port can use the same specifications, but a different cover letter describing:

- The primary coverage and premium.
- The desired excess layer and suggested pricing.
- The desired time allowed for quoting and negotiating before implementation.

Ask the underwriter to first clear with the broker any steps to effect facultative reinsurance.

Begin with the first layer directly above the primary.

Allow two to six weeks depending on the market situation and the amount of excess desired. More time should be allowed when prices are high and capacity is low.

Needless to say, the job does not end here. Once the policies are received, they must be thoroughly checked for accuracy and coverage.

Other Considerations

Specifications should be accompanied by a cover letter to identify a desired time schedule for quoting.

With the above points in mind, the risk manager should be able to work with the port's broker to develop an effective marketing plan, carry it out, and monitor the results.

Information and Records

Most ports have some form of management information system in place to provide management with timely information. Management uses this information to monitor and evaluate the performance of the port against previously established goals and objectives and can implement changes in order to meet these goals and objectives.

To achieve the port's risk management objectives, a similar information system should be implemented. A well designed risk management information system (RMIS) can aid the port in better identifying risk management and insurance costs, identifying adverse trends, claims or other expenses, allocating insurance and risk management costs, and compiling useful loss prevention data.

Many types of information systems can be established. They range from simple programs where the insurer or broker provides claim's reports to more sophisticated programs that import information from a number of sources into a central database. The best system for a port will depend on its individual needs. Items that may be incorporated into a risk management system may include:

- Historical Loss Experience – The port should maintain information on past loss experience. Reliance on brokers, insurers, etc., can result in incomplete records when outside sources are changed. Loss records should be maintained long enough to allow for trends to be spotted. For feasibility studies of alternative funding methods, five to ten years of loss experience is generally required. Loss data should be maintained in such a manner that loss development and claims payment patterns can be analyzed and evaluated.
- Premiums and Deductibles – Records of premiums, deductibles, rating plans and bases, etc., are beneficial. Information on major changes in methods of operation, growth, etc., are also important in determining changes in exposures.
- Cost Allocation System – Programs can be designed to automatically allocate such items as premiums or self-insurance costs, etc., to appropriate operating departments.
- Claims Frequency and Severity Analysis – Accumulating loss information by the nature of the injury, part of body injured, or location

where the injury occurred can be used to direct loss prevention and safety activities.

- Insurance Certificates – A file that collects, services, and brings to the attention of the risk manager expiring certificates of insurance can be valuable to ports with large numbers of contractors, lessees, or other service providers.

Insurance Document Preservation

Many ports and other organizations do not, as a practice, retain expired insurance policies. Litigation involving asbestosis, pollution, and other claims arising out of injuries that may take years to manifest themselves has increased the awareness of the need to maintain information on expired policies. Every port should establish a formal policy for the preservation of expired insurance policies.

Expired policies insuring physical damage, such as fire policies or vehicle physical damage policies, need only be kept long enough to insure that all losses have been discovered and settled. Generally, one to two years beyond policy expiration is a sufficient retention period for these policies.

Liability policies typically require a much longer retention. Since the statute of limitations for minors generally does not begin until the minor reaches the age of majority, a general rule of thumb for retaining "occurrence" policies is the total obtained by adding the years until the age of majority plus the statute of limitation years plus one year. This typically produces a retention period in the range of 21 to 25 years.

Relying on the memories of brokers and insurers can be risky and result in both potential litigation with insurers and uninsured losses. Therefore, ports should establish formal retention guidelines for expired policies. As valuable records, ports would be wise to store policy information in a fireproof vault and make duplicate copies to be stored at a separate location. To aid in the storage of old policies, it is often helpful to microfilm policies rather than retain hard copies.

Claims Administration

The largest single component of insurance premiums is the cost and expense of claims. Because of the impact of claims on the cost of insurance, it is essential to efficiently handle and control claims to keep insurance premiums to the lowest level possible. Subrogation comes into play for all claims, including property damage, liability, and workers' compensation.

The objectives of a properly administered claims plan are to insure that:

- All claims are promptly and appropriately reported to the insurer and individual within the port responsible for claims.
- All claims are adequately investigated and sufficient facts recorded and preserved to permit the port to determine liability, settle claims or render a defense.
- Reserves for claims are established and maintained.
- Claims' experience and costs are properly recorded and preserved for analysis and evaluation by the insured port.

Because of the impact of claims on overall insurance costs, it is extremely important for ports to take an active interest in claims' administration. Many ports that have insured programs rely solely on the insurer for claims' administration. While claims adjusting should be left to those with experience, a port can perform, in coordination with its insurer or adjuster, many activities which will improve claims' administration and over the long-term enable the port to reduce its cost.

Claims' administration varies by type of insurance and among insurance companies. It will also vary from port to port. It is impossible to detail within the confines of this *Guidebook* the procedures that should be used by each port. There are, however, general principles in claims' administration that should be a part of any program.

Workers' Compensation

State statutes or regulations generally require that all workers' compensation claims be reported within a specified time period. Delays in reporting can subject ports to fines and penalties. It is important, therefore, that claims be reported promptly. The steps that might be included in a claims' procedure are:

- The supervisor of the injured employee should complete reports of injury. Generally, the report should note the nature of the injury, time, location, cause, witnesses, and other relevant facts pertaining to the claim. If the validity of the claim is questioned, it should be indicated in a cover letter to the injury report.
- A thorough investigation should be made of all claims. There is a need to investigate all accidents to aid in preventing future losses.
- It is often helpful to contact the injured employee as soon after the accident as possible. During the contact, the employee might be reassured that his or her job will be there upon return to work. In addition, entitled statutory benefits should be explained. This contact should continued through the recuperation period.
- All valid claims should be paid promptly. Claims that are not valid should be defended vigorously.
- The injured party should be returned to health and productive employment.
- Programs designed to return employees to jobs as early as possible such as "light duty" or "alternative duty" programs should be established and injured employees mandated to participate.
- The port should continuously monitor all claims. Failure to monitor and control claims can result in excess medical treatment, litigation, or malingering employees.
- All claims should be administered in accordance with state/federal laws and adjusted with consideration given to industry practices.
- Identification and control of safety/health hazards is essential.

General Liability and Automobile Claims

General elements should include:

- Prompt reporting of all claims. Insurance policies typically include a provision that states "written notice shall be given by or for the insureds to the insurer and any of its authorized agents as soon as possible." Failure to report as required may void insurance coverage.
- Claims should be promptly and thoroughly investigated. It is extremely important to immediately identify witnesses, including names and addresses. Oftentimes, in the confusion following an accident, this vital information is forgotten, making investigation difficult, if not impossible. A port is well advised to assist the insurer in any way possible with the investigation. The port can be particularly valuable in providing technical knowledge or assistance for the unique aspects of its operations or activities. Sufficient information should be obtained in initial and subsequent investigations so that a decision can be made as to whether the claim should be denied, compromised, or litigated.
- All claims should be monitored on a continuous basis. Claims should be settled as promptly as possible. Payments should be made on settled claims as soon after settlement as possible.
- Reserves for claims should be maintained at accurate levels.
- Claims' experience and cost should be recorded and preserved in sufficient detail to allow for analysis and evaluation of historical experience.

Property Damage

- Claims should be promptly reported to the individual responsible for the risk management program within the port. If the damage is expected to exceed the policy deductible, the insurer should be notified immediately.
- Measures should be taken to preserve all undamaged property susceptible to loss because of the property damage.
- Fire protective equipment should be restored as quickly as possible.
- Emergency repairs should begin immediately. Do not wait for the insurance adjuster to arrive. This is especially true if a time element loss will

result from the property damage. It is important to preserve and protect property from further damage.

- Damaged property should be isolated in one location and preserved for the insurance company to inspect.
- All bills for materials, labor, etc., for clean up and repairs should be accumulated. Often it is advantageous to establish a separate budget account to which all charges for repairs are charged.
- The claim, along with support documentation, should be prepared by an individual familiar with the port's insurance and presented to the insurer. For larger claims, a port can negotiate interim payments and present the claim as repairs are completed. For smaller losses, claims are generally reimbursed after completion of the repairs. For large or complicated claims, a port might wish to retain an independent adjuster or consultant to assist with the preparation of the claim and subsequent negotiations.

Risk Management Audits

Ports are advised to conduct regular, independent audits of their risk management programs, to assess processes, policies and procedures, and to gauge ongoing effectiveness. In the course of the audit, the port and its broker or consultant should evaluate and explore:

- The port's risk profile
- The insurance program
- Adequacy of limits
- Risk retention levels and potential benefits of alternative risk financing approaches
- Internal risk control, security, and claims handling activities
- Services provided by agent, brokers, third party claims' administrators, consultants, and other independent service providers
- The port's risk management policy
- Risk administration, information management, cost of risk allocation, risk management structure and staffing, and other internal risk management functions

Benefits of a Risk Management Audit

An objective review by an independent third-party can provide a perspective on the port's risk management operations that simply cannot be attained by port staff. An experienced professional broker or consultant can recommend and assess alternative approaches and provide port management with an objective appraisal of the effectiveness of the current program.

The Risk Management Auditor

Experience, knowledge, judgement, and objectivity are the four most important qualities that an auditor should possess. It is imperative that the auditor have no financial interest in the outcome of any recommendation.

Historically ports have employed independent consultants to conduct their risk management audits. However, many large brokerage firms also have qualified professionals, not involved in sales, who can provide an objective perspective on the port's risk management function. Brokers who focus more on consultative approaches to meeting their clients' needs are expanding their auditing capabilities.

The process for selecting and engaging an outside consultant is described in detail above.

Scope of the Audit

A risk management audit generally encompasses:

- Risk management policy.
- Risk management staffing and procedures.
- Types of risks faced, their relative importance, and the degree to which they are transferred or managed.
- Opportunities for risk control enhancements.
- Effectiveness of risk management information systems.

- Loss projections based on analysis of loss/claim payouts (i.e., frequency patterns, severity calculations, loss stratification, payment triangles, and other statistical methods).
- Tolerance for risk and retention capacity.
- Alternative risk financing approaches.
- Insurance problems, such as gaps or overlaps in coverage, restrictive named insured wording, inappropriate limits or retentions, onerous policy conditions, questionable carrier solvency, and unclear policy wording.
- Risk management and insurance records retention program.
- Claims and litigation management.
- Disaster planning.
- Broker or agent performance, method and amount of compensation.

Timing

Conditions at the port that may trigger an audit include:

- A major change in operations
- No audit has been done for five years or more
- New developments in markets, regulation, laws, or specific events
- Management concerns about the effectiveness of the risk management function
- New management wants an independent evaluation
- Insurance has been placed with the same carrier for more than six years, or with the same broker more than ten years
- An alternative risk financing approach offers potential benefits

Information Required

The comprehensiveness and quality of the information used to conduct the risk management audit will determine the quality of the audit itself. The information provided to the auditor should include:

- The port's annual budget (including the Risk Management Department's budget) and annual report.
- Organization chart and reporting responsibilities.
- The port's risk management manual.
- Other internal documents relating to insurance, claims, or risk.
- Contracts with risk management service providers.
- Representative leases and other contracts, and any unusual contracts.
- Bond indentures with insurance or risk aspects.
- Property schedule, including replacement costs.
- Detailed loss runs by year, and summary by division.
- Relevant exposure history, i.e., revenues, vehicles, payroll, building square footage.
- Copies of insurance policies and related documents, including retro agreements, business income worksheets, etc.
- Copies of current and recent past premium audits.
- If workers' compensation insurance is involved, payroll by workers' compensation classification.

Audit Process

The auditor meets with appropriate port personnel to define the scope of the proposal, become acquainted with current conditions, and identify the right people to contact and locations to inspect. Whenever possible, the auditor should interview the Port Director or other senior officers for views on the port's status and plans and to lay the groundwork for later acceptance of the audit report. The audit team should:

- Inspect major properties and interview key personnel to become familiar with the flow of materials and the risks inherent in every step. This process also helps in identifying any off-premises exposures.

- Determine loss potentials, including maximum possible losses.
- Review a representative sample of contracts and leases (including bond indentures) to determine whether the port's contract review procedures are adequate. If not, the port may be enduring unwarranted assumptions of liability, unmet requirements for insurance, unrealistic requirements of others, contracts that should have insurance requirements but do not, etc.
- Examine loss runs to identify trends and loss problems and to assess the quality of the port's communication of loss information.
- Review the port's risk management manual and related directives to evaluate the field's compliance with accepted practices.
- Conduct an in-depth interview with the port's insurance brokers or agents, to understand their program design and marketing approach, service plans, and strategy for future servicing and marketing.
- Thoroughly review the port's insurance policies.
- Interview port personnel to learn about risk-related issues and exposures that management may not be aware of. In addition to the risk manager, the team should talk with the following:
  - Chief Financial Officer, to discuss topics such as the port's risk tolerance, retention capacity, bond indentures, and reserves
  - Claims or workers' compensation manager, to address claims practices, use of loss runs, identification of hazards, and claims problems
  - Controller, to consider the nature of reserves, cost accounting, and cost of risk allocation
  - Legal counsel, to address standard contracts, contractual problems, important litigation, and claims techniques
  - Engineers, to discuss the use of safe design criteria, and current engineering activities
  - Fleet manager, to review driver selection practices, accident procedures, subrogation techniques, and car rental practices
  - Manager of internal audit, to discuss the nature of security and other audits
  - Human resources manager, to consider hiring and firing practices, and employment practices exposures
  - Purchasing manager, to address terms of shipping and clauses in purchase orders
  - Safety manager, to review the port's safety standards and manuals, procedures, and tie-in to workers' compensation
  - Security manager, to consider the nature of security problems and scope of activity

The lead auditor may conduct an exit interview with the Port Director to discuss findings, and the team prepares a report for the port that addresses:

- Audit rationale and process
- Summary of the primary conclusions
- Recommendations
- Detailed discussion of all findings

CHAPTER 3: LOSS FREQUENCY, SEVERITY, & FORECASTING

Valid evaluations of casualty loss frequency and severity require:

- Multiple years (ideally at least 10) of loss experience.
- A database of sufficient size to allow the law of large numbers to function. Individual port operations will not normally present a large enough database to support a statistically credible analysis of casualty loss frequency or severity. However the combined exposure bases and loss experience of all American Association of Port Authorities (AAPA) members could be used to establish credible "industry benchmarks" against which individual ports could compare their performance. Exposure bases could be revenue, number of employees, payrolls, tons of cargo handled, and property values at risk. Benchmarks might be number of work accidents/100 employees, dollar ($) cost of worker accidents/100 employees, average $ cost per claim, number of injuries per ton of cargo handled, $ loss per ton of cargo handled, etc. Individual ports could compare their performance against these "industry benchmarks" and also study changes in their own statistics from year to year.

Casualty losses – particularly workers' compensation – are more readily forecast because of their higher frequency and more limited range in $ amount – which make them more predictable. Exhibits C and D (pages B--3 and B--4) contain an example of calculating historical payroll loss rates and applying their average to expected future payroll to determine expected future workers' compensation losses.

Exhibits C and E (pages B--3 and B--5) include references to "Loss Development." By way of explanation, reported casualty losses tend to grown over time due to incurred but not reported (IBNR) claims, unpredictable jury decisions and reopened workers' compensation claims. Therefore, it is necessary to inflate these claims by the appropriate, age-related "development factor" in order to derive an accurate figure for the ultimate cost of these claims.

General liability, automobile liability, and workers' compensation claims are paid out over time. Exhibit F shows the average annual rates at which these types of claims are paid.

Even on an industry wide basis, valid property loss frequency and severity are difficult, if not impossible, to predict because of the relatively few number of losses and the wide variation in the size of losses that occur. Two commonly used measures of loss potential are Maximum Possible Loss and Maximum Probable Loss. Maximum possible loss is the worst loss that could happen. Maximum probable loss is the worst loss that would probably happen. It is normally less than the maximum possible loss. However, it is based on judgment rather than precise figures. As an example, assume a port has two identical warehouses – each worth $1,000,000 – which are separated by 100 feet. The maximum probable loss from fire would be the total loss of one warehouse, or $1,000,000. The maximum possible loss from fire would be $2,000,000. However, different exposures to the same property may produce a different maximum probable loss. In a hurricane, the maximum probable loss to these warehouses would be $2,000,000.

When calculating either maximum possible or probable loss, the risk manager must make certain that all costs associated with the loss are considered. The physical damage is probably the easiest to determine, but loss of income, extra expense to maintain operations, the interdependencies of related port operations, the time required to rebuild or repair damaged facilities, availability of rental equipment, and emergency arrangements to minimize inconvenience to customers must also be included in the calculation.

Property and business income insurance may be purchased with:

- Specific limits for each separate "fire division" (separate, but adjoining structures each with its own property insurance rate)
- An overall loss limit for each loss
- A blanket limit (the sum of all specific limits) available to respond to a loss.

Specific, or separate limits require continuous monitoring and adjustment to reflect accurate values under changing conditions. If the values are understated, loss recovery will be reduced accordingly.

A loss limit somewhat in excess of the largest maximum possible loss for a multi-location organization is the most economical and prudent approach.

Utilizing a blanket limit is the most cautious and most expensive method of purchasing property and related coverages.

CHAPTER 4: IDENTIFICATION OF LOSS EXPOSURES

Importance of Identification Process

Risk management begins with the identification process. Unless there is recognition of risk, one cannot take appropriate measures to deal with it. An organized approach to identify risks is one of the most important responsibilities of the risk manager.

Insurance evolved as a means of providing protection for known and commonly understood risks. However, a key point of risk management is that insurance may not be the best way to deal with a risk in terms of either cost or the protection afforded.

It is important to keep in mind that risks are not static but are subject to change in many ways. Examples of how risk can change include the following:

- Introduction of new equipment
- Automation
- Introduction of new products and services
- New methods of loading or unloading
- Dealing with new products, cargo, or vessels
- New laws and regulations
- Court decisions
- Changing social attitudes
- New employees and customers
- New construction, remodeling, and renovation

The element of change requires that the identification process be ongoing. The risk manager must be familiar with and knowledgeable about the port's basic services and facilities, etc., and also must be aware of new exposures to loss.

Prior to the development of risk management as a recognized method for dealing with the risk of loss, only obvious exposures were likely to be given consideration, and, there was no organized approach to identifying and handling risk. The risk of loss is not always readily apparent. Because of this, a variety of techniques are required. The following methods of risk identification can be used.

Inspections

First hand knowledge of a port's facilities and properties is essential. This knowledge can only be obtained by a practical familiarity with what exists in the way of physical assets and how these assets are used.

A helpful tool to use in an inspection is a map of the property showing not only the port itself but also adjacent and surrounding property as well. Spatial relationships are important, such as the proximity to a facility of hazardous nature.

Inspection will reveal physical characteristics such as:

- Type of construction (frame, fire resistive, windstorm resistive, etc.)
- Stored materials or inventories (flammable, explosive, pollutants, products subject to spoilage)
- Housekeeping
- Security
- Equipment guarding
- Exposures to injury of employees and the public
- Traffic exposures (ship, rail, vehicular)
- Fire protection

Internal Records

A port's internal records are a valuable source of information useful to the risk identification process.

Financial records and budgets are helpful in a number of ways. Some of the questions which are prompted by them can include: how much cash is on hand at any given time? Is it susceptible to theft? How is it transported to the bank? If by armored car, is the armored car company responsible for the full amount of any loss? The cash exposure may or may not be significant, but all businesses deal with checks. Are incoming checks recorded in a manner that would make it possible to obtain replacements or reimbursement if the originals were lost, stolen, or destroyed? Are accounts receivable backed up to allow reproduction?

The income section of a financial report, if in sufficient detail, will highlight which operations, activities, or services generate the most revenue, requiring treatment of business interruption or extra expense risks.

Financial statements will assist in evaluating the capability of a port to self-insure loss exposures. A healthy cash flow and surplus position can help in the determination of the advisability of self insurance.

Other important sources of information are asset records which show the location and original cost of all real and personal property. Copies of all requests for purchase and disposal of property can be routed through the risk manager to provide an additional check to ensure that all new property is being included, and that property which is sold or otherwise disposed of is reflected in the insurance records. Inadequate asset records will also make proving a property loss difficult.

Copies of all contracts should also be routed to the risk manager for review to determine exposures from outside organizations. The decision to retain or transfer risk can then be made.

Contracts may also indicate the existence of hazards not previously know. It is preferable, but not always practical, to have the risk manager review contracts prior to their execution. This will allow for comment to legal counsel or finance on issues that are important from a risk management viewpoint and which may not otherwise be given the consideration they deserve.

Minutes of meetings of the port commissioners are an invaluable source of information regarding many things affecting the port but primarily as respects plans for future expansion, new activities, new operations, and new construction, purchase of major new assets, other major expenditures, etc. Minutes will also provide timely notice regarding planned discontinuance of operations and activities.

Loss runs (all insurance coverages) properly maintained and organized, are critical in identifying loss frequency and severity. The risk manager can then initiate appropriate loss prevention measures.

Department manuals (human resources, accounting, and operations) often give insight into certain potential problem areas. For example, if policies are written, they should be enforced, otherwise continued nonenforcement may be interpreted as a practical repudiation of policy. Also, there should be no formal, oral statements permitted that are inconsistent with written procedures and policies, particularly as regards human resource matters.

Checklists or survey questionnaires can often be helpful in pointing out exposures that are overlooked. A number of sources have developed "exposure checklists or questionnaires," which are sometimes lengthy, multiple page outlines for possible loss exposures. An exposure identification questionnaire developed specifically for ports can be found in Appendix C of this *Guidebook*. Checklists have inherent limitations in that they cannot be relied on to identify your complete exposure to loss. While the operations of ports are similar, each has its own unique activities and operations which generate exposures to loss.

Flow charts are diagrams that picture the flow of goods through the various parts of a facility. These charts are critical to maintaining continued operation and gauging contingent business interruptions.

Employees are a good source of information. The risk manager should become acquainted with a broad spectrum of employees, particularly key persons, in various operations, divisions, departments, etc. On a regular basis, questions should be asked about their activities, problems, concerns, and any information that may be useful in identifying risk.

External Sources of Information

Changing technology, business practices, law, government regulations, etc., all compound the problem of risk identification. The risk manager should attend relevant seminars and workshops. Examples of organizations that sponsor such meetings include:

- *Risk and Insurance Management Society (RIMS)* (see Appendix A, page A--9), whose membership is composed of full-time and part-time risk managers. Meetings are held both at local chapters and at the annual national conference. This organization also promotes meetings with special industry groups, including "Ports and Marine Terminals."
- *Public Risk Management Association (PRIMA)* (see Appendix A, page A--9), is a national public risk management association which promotes effective risk management in the public interest as an essential component of public administration.
- *American Management Association* conducts a variety of meetings throughout the year on many aspects of insurance and risk management. Meetings are held at different locales.

Other organizations – These include the National Fire Protection Association, the National Safety Council, and the National Maritime Safety Association. National and regional port associations often include insurance and risk management topics in their meetings. A number of associations, such as the American Association of Port Authorities (AAPA), the Pacific Coast Association of Port Authorities (PCAPA) and others, have standing risk management committees.

Even though many ports do not have a full-time risk manager, it would be worthwhile for ports to contact these organizations and ask to be placed on their mailing lists to receive notice of seminars and meetings. Additional benefits of attending such meetings is the opportunity to meet others with like interests and to exchange information which can often be very helpful in designing and improving your own program.

Risk identification can be augmented by having knowledge of current problems, industry changes, losses, etc. Legislative enactments, such as those affecting responsibility and liability for pollution and its clean-up are a good example. Useful information can be obtained from the referenced books and periodicals listed in Appendix A (page A--17).

Outside Specialists

Professional risk management consultants can provide meaningful services to both part-time and full-time risk managers. A common service is the audit, review, and evaluation of an organization's overall exposures and programs. The periodic use of outside consultants for assistance is practiced by a growing number of organizations.

An insurance agent or broker can also prove to be a helpful resource. These, at times, can be more insurance oriented since many agents and brokers have little practical experience with risk management concepts and practices.

There are a wide variety of specialized consultants that can also be used for specific needs. These include such specialists as computer and other security specialists, safety and industrial hygienists, cargo handling loss prevention specialists, fire protection engineers, etc.

COMMON EXPOSURES AND RISKS

Ports represent very specialized business enterprises. While they vary in size, methods of operations, facilities, and in many other areas, certain loss exposures are common to almost all ports. Additionally, many port loss exposures are of a type that are common with many other organizations.

It was previously stated that the risks of loss can be categorized under three general categories:

- Property Loss
- Liability Loss
- Personnel Loss

In this section, we will provide a discussion and examples of what types of risks are included in these three classes.

Liability To Others

Ports are faced with a multitude of possible liability claims because of injury to other people or damage to their property. Some of these exposures are unique to ports and marine operations, while others are not. This discussion does not attempt to comment on the exposures in any particular order of importance. In many cases, the difference between a small and a large liability claim is a matter of luck, or of the opinion of a particular jury or judge.

Public Officials Liability

Private industry has long recognized the need to protect the interests of those individuals who run a company via indemnification of losses and/or directors and officers liability insurance.

Most ports are public entities but the same need is obvious. Public Officials liability insurance is designed to provide similar protection to port officials and employees for their liability arising out of management of a port.

Coverage includes the cost of defending a claim, a port's obligation to reimburse officials and employees for costs or judgments incurred and, where no reimbursement is required or permitted, to cover the personal liability of officials and employees for their management activities.

Common areas of claims or suits to which officials are exposed include:

- Conflict of interest
- Failure to follow legally mandated procedures
- Breach of labor regulation
- Purchasing practices
- Condemnation or sale of land
- Conspiracy or collusion
- Unfair trade or labor practices
- Breach of contract

Historically, these causes amount to over 65 percent of claims or suits against public entities.

Employment Practices Liability

Claims alleging sexual harassment, discrimination, wrongful termination, and many other employment–related torts are being filed in escalating numbers. Although this is a relatively new exposure, it has great loss potential. There are currently more than 25 federal and state laws, together with hundreds of regulations, applying to almost every workplace relationship. Few employers and employees understand their rights in the workplace.

For example, the precise meaning of provisions of the federal Americans With Disability Act requiring "adequate access" and "reasonable accommodations" are being interpreted through litigation. Also, compliance with the federal act does not assure compliance with conflicting state and local regulations.

While Employment Practices Liability insurance is available, underwriters require evidence that employers have developed and are consistently enforcing fair employment practices.

Bailments

Bailments refer to a special type of legal liability. In the case of a port, it is mainly reflected by the warehousemen's liability for damage to goods left in the port's care, custody, or control. Other exposures are represented by any type of property that is in the port's care, custody, and control.

Many ports have broadly worded tariff agreements under which customers who use the port facilities must absolve the port from any loss or damage to the customers' property. The value of these agreements is questionable to the extent the loss or damage is attributable to negligence of the port. The courts generally hold that ports may not contractually transfer their sole negligence. In other words, regardless of what a tariff may say, if a customer sustains loss or damage and can show the cause of such to be negligence of the port, the port may be held responsible. Since ports typically have substantial warehousing and storage facilities, they should recognize that a very large potential for liability exists should property be damaged because of their negligence (such as by a fire that originates from a negligent cause).

Common carriers are another type of bailee. For example, ports that operate their own railroad would have this exposure. In most cases, a common carrier retains absolute liability for damage to goods being carried, except for damage attributable to "acts of nature" or "the common enemy" (war-like acts and revolutions). Governments usually control the ability of common carriers to limit their liability by contract via the control exercised over rates and terms of shipment.

Motor Vehicle Liability

The use of automobiles is a common exposure to almost every business. To the extent that the operation of a port automobile results in injury to others, a port will no doubt be liable for resulting damages. In addition to the obvious exposure represented by owned vehicles, a port can incur liability from the operation of non-owned automobiles such as leased automobiles, rental automobiles (should the renter's insurance be inadequate, deficient, or non-existent), the personal automobiles of employees used on port business, and automobiles of contractors or subcontractors.

Exposures may also arise out of no-fault laws and uninsured/underinsured motorists' laws.

Product Liability

Anyone who makes, sells, or distributes products to be used by others is susceptible to liability if the product is defective, or not fit for its intended use. Ports can have a serious product liability exposure in some instances. An example is a port that in some way processes bulk grain. To the extent the grain may be contaminated, significant damages may result if the grain is then used in food products or animal feed. The exposure related to product liability can be further complicated if the product is exported to a foreign country. In that case, the port is faced with foreign laws and practices, which can be totally different from those of the U.S. In some states, equipment designed or manufactured by an employer could allow the injured employee to bring suit under product liability.

Contractual Liability

The risk of loss arising out of a particular undertaking can be transferred from one party to another via contract. Contractual transfer of risk and the assumption of risk are commonplace occurrences in the business environment.

A port is responsible for its own negligent acts and should avoid assuming contractually the responsibility of others, particularly those for whom they provide services or the use of port facilities.

Application of this principal is sometimes not possible or practical because of business or other overriding reasons, especially where a port is doing business with another governmental body, a valued customer, a local or specialized contractor. In such instances, the port may be obliged to accept the transfer of liability because it wants or needs a particular unique service, or because a firm will not do business on any other basis. However, as a matter of policy, a port should attempt to eliminate contractual assumption of risk whenever possible. Where there is leverage, efforts should be made to transfer risk to the other contracting party.

All matters pertaining to contractual transfer of risk should be reviewed by legal counsel and others who are familiar with legal and business implications of the contract.

In some instances, the risk assumed in the contract will explicitly identify primary exposure areas. An example of this would be a construction contract for a new dock, where the contractor is required to specifically assume liability for bodily injury and property damage to others, and to his employees, arising out of the performance of the work.

In other cases, the potential exposure may be latent, due to the fact that the contract is silent in a particular area. An example of this would be where a port hires a helicopter to photograph certain port-owned facilities along with adjoining neighboring property, and the rental agreement is silent as to responsibility for injuries or damages arising out of use of the helicopter. It is important that exposure to a port should be specifically identified and analyzed by those who are familiar with both the legal and risk management implications of a contract to determine what the exposures are, and which exposures have been assumed or transferred.

Liabilities are inherent in a wide variety of activities and services related to contractual agreements, and care should be taken to see that a port is properly insulated against liabilities that should have been clearly assumed by the other party to the agreement. Contractual risk assumption or transfer can occur under a wide variety of agreement including:

- Construction Contracts
- Lease Agreements
- Purchase Orders
- Rental Agreements
- Maintenance Contracts
- Service Agreements
- Warranties
- Vendors
- Mutual Aid Agreements
- Verbal Agreements
- Contracts of Sale
- Charters

The most commonly found example of contractual transfer of risk for ports is in the port tariff. A landlord typically has only minimal liability for damage to ships or injury to stevedores or crew during the loading and unloading process because the tariff makes the user of the port facilities responsible for such damages.

Aircraft Liability

Liability related to use of aircraft is comparable to that under automobile insurance. A port does not have to own an aircraft to incur liability. Rental, charter, or use of any non-owned aircraft on behalf of a port may result in liability should the aircraft injure persons or damage property. Additionally, the use of port property as a landing area (heliport) or hangar facility can result in liability to an aircraft owner or operator similar to the exposures under garage or garagekeepers insurance.

Watercraft Liability

As with automobiles and aircraft, a port may incur liability from either owned or non-owned vessels. Port vessels can be involved in occurrences with other vessels or property resulting in injuries to both the port's crew and third parties as well.

Liabilities may arise from pollution situations and for removal of wrecks that block or impede navigation. A port with a fireboat(s) may also be exposed to liability from fire fighting activities.

Pollution Liability

Exposures can vary depending largely on whether or not a port handles or stores petroleum, flammable or hazardous materials, the volume of such goods handled, and the potential they pose for pollution and contamination. Pollution liability can be a gradual occurrence over a period of time such as leakage from a storage tank or sudden or accidental, such as a fire, explosion or tank collapse. Required clean-up costs can make up a significant portion of pollution liability claims. Exposures may exist from old or prior uses of a port's property. Remediation costs can be substantial.

Pollution liability can be based on common law, the Federal Water Pollution Control Act of 1972 and its amendments in the Clean Water Act of 1977; the Oli Pollution Act of 1990; the Clean Air Act of 1970 and its 1990 amendments; the Emergency Planning and Community Right-to-Know Act of 1986; and the Noise Control Act of 1972 and other state or federal statutes. In addition to pollution losses arising from the discharge, claims for disposal or seepage of contaminants into or upon land, water, or air, can be based on the generation of smells, noise, vibration, light, or other sensory phenomena.

Professional Liability

A growing area of liability exposure is that relating to the errors or omissions of employees acting in a professional capacity. In these instances, the employee and port may both be held responsible, the employee directly and a port vicariously.

Professional liability insurance should be considered for the following professions:

- Health care professionals
- Accountants and financial analysts
- Lawyers
- Surveyors
- Engineers
- Non-employee trustees of benefit plans
- Consultants
- Police or harbor patrols
- Fire departments
- Pilots
- Harbor masters

The liability of accountants, financial analysts, lawyers, surveyors, or engineers will generally be minimized by the fact that they are not in public practice. As long as the port is the only organization to which they provide their professional skills they are relatively shielded from liability claims – so long as the port itself chooses to absorb their mistakes (if any) as a business risk. Outside counsel, of course, should rely on its own professional liability insurance.

Ports with their own police, guard, or security are exposed to claims for such acts as false arrest/detention, malicious prosecution, libel, slander, wrongful entry/eviction, assault-battery, violation of civil rights, and abuse of prisoners.

Fire fighting departments can also incur liabilities such as when they are allegedly negligent in their fighting of a fire (improper equipment, faulty equipment, failure to recognize fire fighting needs for special exposures, etc.).

Completed Operations Liability

This is a stand-alone companion coverage to Products Liability. Completed operations liability includes bodily injury or property damage arising out of work completed by or on behalf of a port after the acceptance of the work or after it is put to its intended use.

Personal Injury Liability

Personal injury liability claims can arise out of a variety of allegations including libel, slander, defamation of character, false arrest or imprisonment, malicious prosecution or invasion of the rights of privacy.

Fiduciary Liability

Passed in 1974, the Employment Retirement Income Security Act (ERISA) deals primarily with employee welfare plans. The Act holds the trustees of these plans to the standard of an ordinary, reasonable, and prudent expert. Reliance upon outside, professional advice is not a defense.

Employee Benefits Liability

This is often confused with Fiduciary liability. Employee benefits liability refers to the common law liability that can arise out of errors or omissions in the administration of the port's employee benefits programs. These can result from improper advice, mistakes in enrollment, errors in counseling as to plan options, and from other acts or failure to act.

Joint Ventures

Ports can become exposed to risk arising out of activities of others when they participate in joint ventures. A joint venture may involve a regional security or fire fighting organization, joint ownership or operation of special loading and storage facilities, joint operations of railroad facilities, etc. To the extent the written joint venture agreements establish liabilities through hold harmless and indemnity agreements or insurance provisions, these must be reviewed to determine a port's liability exposures. Also, a port can find itself exposed to significant unknown risk when a joint venture agreement does not address these important subjects.

Wharfinger's Liability

Docks and wharf owners have a recognized liability to provide for safe berthing of visiting vessels. They must exercise care to protect clients' property from damage from causes which a port can reasonably control

Ports, in general, rely heavily on their tariffs and hold harmless and indemnification provisions to insulate and protect against claims involving property damage to vessels, cargo, and bodily injury to crew, stevedores, etc. To the extent that a port does not negligently contribute to a loss, such provisions may be sound and reliable. However, in any claim or loss situation where a port is judged negligent, injury and property damage liabilities can be substantial.

Mutual Aid Liability

Ports will, at times, participate in mutual aid agreements with other organizations. These agreements will most often involve the areas of fire fighting, fire inspections, hazardous waste material handling, oil spill clean up, and police activity. Care should be taken to structure the agreement to minimize potential liabilities. For example, a mutual aid agreement with a nearby chemical complex for fire fighting may be sound and desirable. However, there should be adequate and regular training of a port's fire fighting personnel in any special or unique fire fighting requirements that may be present at the chemical complex. Otherwise, improper fire fighting could result in a claim for damages against the port.

Charterers Liability

Ports, from time to time, charter watercraft. This can involve the charter of a dredge, a floating crane or pile driver, a temporary replacement for a police or fire boat, or a passenger boat to take people on a tour of port facilities (such as might be done on completion of a new important addition to the port's facilities or for a special event). The usual liabilities exist in such situations (potential for damage to the vessel under charter, damage to property of others, injury to employees, and injury to others). Particular care should be exercised in those cases where the vessel is chartered with captain and crew. In these cases, the port can still be held liable for claims arising out of use of the vessel. Hold harmless and insurance requirements contained in the charter agreement should be reviewed carefully and evidence of insurance obtained from the charter operator.

Liability to Employees

Workers' Compensation, Other Statutory Liabilities, and Employers' Liability

Every employer is exposed to the liability inherent in work related employee accidents or occupational illnesses. These are typically "no fault" situations where the employee does not have to prove negligence on the part of a port. The employee must establish only that the injury in an accident arose out of employment.

The employer's statutory obligation in most cases is to provide for all required medical care, disability payments for wage loss, and death benefits.

There are many different laws applicable to employee injuries. Each state has its own workers' compensation law and the scope of benefits varies from state to state. In addition, depending on the circumstances of a given injury, federal workers' compensation statutes may apply. The two federal laws that may apply to a port's employees are the Federal Longshore and Harbor Workers' Compensation Act (USL&H), and the Jones Act.

Except for employees of governmental bodies (who are specifically exempted from the USL&H), any employee working around navigational waters may fall under USL&H. These benefits are typically substantially higher than state workers' compensation benefits.

If a port owns vessels and employs crewmen, it may be subject to the Jones Act, which imposes the obligation on the employer for transportation, wages, maintenance and care for disability, or illness incurred by employees on the vessel.

General maritime law may also be applicable should a port owned or operated vessel be found unseaworthy, after injury to a crew member. Unlike state workers' compensation acts where liability is limited, the Jones Act is a negligence type act without statutory limitations for injuries or medical benefits. In such circumstances, the crew member has the right to bring action directly against the vessel and any liability that exists is imposed against the vessel, rather than the port (*in rem* actions).

Employers' liability claims result from injuries not included under the jurisdiction of a state or federal compensation act. Employers' liability claims are not common, but they do occur. Employers' liability claims can result from such occurrences as illegally employed minors, suits from spouses for loss of consortium, and employees of third parties working for a port where there is a contractual assumption of liability by a port.

Employers' liability claims can also arise out of dual capacity situations. These arise when an employee is also a "consumer." The allegation is that, as a consumer, an employee should be entitled to sue as a consumer with employer immunity waived. Dual capacity claims are an area of concern to employers. However, as with most employers liability claims few, if any, are successful.

The Occupational Safety and Health Act (OSHA) or similar state statutes are designed to ensure a safe work place for employees. While not directly related to liability for employees, they do create liabilities for employers, typically in the form of costs for both compliance with regulations and in fines and penalties for failure to meet required safe working conditions. Attention to OSHA requirements is a prudent application of sound risk management practices.

Terminal Operators Liability

Like any other business enterprise, a port is exposed to losses from the existence of its premises and those operations conducted at and from those premises. All other exposures to loss emanate from the port environs and operations thereon.

Exposures exist from bodily injury and property damage to the general public, visitors, contractors, and others working at port facilities, vessels and their cargo, and surrounding property. Insurance normally covers (1) liability from the premises hazard and operations necessary or incidental thereto, (2) vicarious liability from the operations of contractors or sub-contractors, and (3) liability assumed under contract, products, completed operations, personal injury and the ownership, operation, maintenance, loading or unloading of watercraft.

Garage Operations

All ports have parking facilities for employees, clients, visitors, and others with business at the port. These require no special treatment other than the care exercised at all port facilities.

Some ports have paid parking areas and some even provide valet parking. These activities are outside the normal scope of a port's operations and offer unique exposures to loss, which must be considered.

Park and lock facilities create a situation requiring a duty to warn of dangers to the business invitee. Failure to provide normal security or allowing parking in dangerous or unsuitable areas will create liability exposures.

Valet parking can also create a situation which requires a higher degree of care, including protection from harm, for the invitee.

Also, exposures exist from the operation of automobiles resulting in bodily injury or property damage to others and damage to the automobile itself.

As respects damage to automobiles belonging to others, for which a port is providing parking facilities, exposures arise from collision of the automobile and comprehensive perils such as windstorm, fire, theft, vandalism, glass breakage, flood, etc.

Exposures must be measured in terms of the value of individual automobiles and the aggregate value of all automobiles at risk from a single occurrence.

Then, the decision to treat collisions or comprehensive exposures separately or together is required. Normally, collision loss involves single automobiles and may be considered for self-insurance treatment.

Comprehensive exposures involve many automobiles exposed to the same loss and can be significant. Insurance with an acceptable occurrence deductible is prudent.

If the decision is made to insure, then two forms of "Garagekeepers" coverage are available:

1) Direct Damage – payment is made without regard to liability and may be written as excess of an owner's own insurance (covers

the owner's deductible) or as primary insurance without involving the owner's insurance.

2) Legal Liability – provides defense to a port and will pay only if liability is imposed.

Damage to Owned or Leased Property

All ports have the loss potential associated with damage to, or destruction of, owned or leased property. The obvious loss exposures are those related to buildings and their contents, to equipment, and to vehicles. These classes of property are all readily insurable. We will comment in this section on some of other property risks to which a port is exposed.

Piers, Wharves, and Docks

These are common to all ports. However, they are often not insured. Flood damage, collapse, wave damage, slippage of pilings, damage or loss of pilings below the water line, unreported dock damage (such as by vessel collision), and earthquakes are all examples that are typically not insured.

Electronic Data Equipment and Media

Loss exposures in this area are often uninsured or overlooked. Equipment should be both located above the ground floor to protect against water damage and located in non-combustible buildings. Special hazards include possible power surges, short circuits, damage caused by dampness, dryness or extremes of temperature (such as might occur through failure of an air conditioning or heating system), and electronic or mechanical failure. Media can be subject to accidental erasure, to magnetic injury, and to damage resulting from breakdown or malfunction, in addition to the more obvious loss exposures such as fire and other standard causes of loss.

Storage Tanks

These are often not insured if constructed of metal or concrete. One could easily believe that there is only minimal chance of loss, particularly if no flammables or caustics are being stored. However, storage tanks are susceptible to loss from collapse, vehicles, vessels, and from such incidents as tornadoes, hurricanes, and earthquakes. Including such assets in an overall property insurance program is generally worth considering.

Boiler, Machinery, and Equipment Breakdown

Machinery and equipment breakdown often results in significant repair costs. Large transformers, motors, air conditioners, cranes, electric control panels, compressors, pump generators, and other equipment can fail, breakdown, or be subject to electric injury. Boilers and other pressure vessels are subject to cracking and explosions where mechanical and safety controls fail or malfunction.

In addition to damage to the equipment itself, explosions create potential exposures for damage to surrounding equipment as well as buildings housing the boilers and machinery. Consequential loss exposures frequently far exceed costs associated with repairs to boilers, machinery, and equipment. Objects of small value can cause losses far in excess of the value of the object. A small cooling fan which breaks down can cause failure of a much larger or more complex piece of equipment, resulting in a sizable loss.

Mobile Equipment and Vehicles

Railroad switch engines and cars, cranes, trucks, loading and unloading equipment, ship trimming equipment, bulldozers, and other similar types of equipment are by their nature usually not readily susceptible to severe damage as they are generally of heavy construction. In some cases, the loss of a single piece of equipment may not be significant. However, a major loss occurrence involving a number of such items in one incident can result in a substantial expenditure for repairs or replacement equipment. Explosions, fires, floods and hurricanes all can cause significant losses to such equipment.

Fire Sprinkler Leakage

Warehouse and storage facilities often have automatic sprinkler systems for fire protection. Whenever a facility has sprinklers, the exposure to water damage from accidental discharge, or rupture of the system, is present. Coverage for such damage is available by endorsement to property insurance policies. It should be noted, however, that standard sprinkler leakage coverage includes only the water pipes and heads of the system. Large sprinkler leakage losses have resulted from breakage of underground feed mains. Without specifically covering the feed mains as well, such damage would not be insured.

Bridges

Many ports own and operate bridges as part of their normal operations, and, many are served by bridges owned and operated by others (authorities, municipalities, private companies).

Usually, bridges over navigation channels will be designed to avoid impeding navigation. These can include lift bridges, draw bridges, and swing bridges.

A port must consider not only exposures of direct damage to the bridge itself but also exposures from mechanical breakdown or damage to the mechanism which operates the bridge.

Loss exposures exist from the cost of repairing or replacing a bridge, the cost of repairing or replacing machinery, gears, etc., and lost revenues from the inability to move either vessels or land vehicles through or over a bridge.

If a bridge becomes inoperable or unusable, consider the alternatives available. Are there alternative routes to move traffic, can vessels be berthed at other piers or docks, or can traffic can be diverted to other ports? Crisis management is a must if bridges are an essential part of a port's operation.

Boats and Barges

Ports generally own some watercraft, which may be small and of low value. Physical damage to these type boats, such as those used for inspection of docking areas and vessels, or to take soundings, are probably well suited to self-insurance. However, larger vessels of significant value are typically insured. Care should be taken to be sure that all special outfitting or equipment that is part of a vessel (cranes, compressors, pumps, tanks, etc.) are included in a vessel's total value for insurance purposes.

Locks

Some ports may own locks as part of their facilities. The most obvious exposure is that related to collision from vessels. Floods can also damage locks if the flood water is of sufficient volume and strength. Where an exposure exists, a decision to insure or retain the risk must be considered.

Radio Masts and Antennas

Ports will sometimes have a communications center that includes broadcasting and receiving antennas. Masts and antennas can be damaged by lightning, wind, and other perils. When masts and antennas are of more than incidental value, insurance should be considered. Antennas generally are not covered by standard insurance policies without special endorsement.

Valuable Papers and Records

Ports will, at times, have what are considered to be valuable papers and records. These are records that are not maintained on electronic data media (discs, tapes, etc.). Examples include blueprints, deeds, engineering drawings, maps, abstracts, leases, etc. The cost to reproduce such documents, if lost or destroyed, can be significant. Standard policies provide small sublimits, if at all. Reproduction before a loss is the best insurance along with safe storage. Where neither is practical, securing insurance coverage should be considered.

Accounts Receivable

Destruction of accounts receivable represents a special loss exposure from the inability to collect or even know the amount of moneys owed by customers. In addition to loss of revenue, a port can have additional costs including:

- Interest charges on loans to offset the revenue lost;
- Higher than customary collection expenses;
- Expenses incurred to reconstruct, to the extent possible, the records of accounts receivable.

Crime

Loss exposures from crime arise from two sources, employee dishonesty and third party theft including burglary, robbery, pilferage, forgery, etc.

Third party losses are usually immediate and easily discovered. Employee losses are more insidious and can occur over a long period of time. Embezzlement, check kiting, cash or inventory pilferage are difficult to detect and can result in a large aggregate total although each transaction is small.

When considering insurance, the amount of coverage for third party theft of money, securities or other property, the amount at risk at a given time is the proper amount to be insured. Employee dishonesty limits are more difficult to measure because of the time over which losses can occur.

The best protection is the proper application of security, physical protection, internal controls and procedures and audits.

Loss of Use of Property

Loss of use of property can result in both direct and indirect losses. A direct loss includes the loss of revenues resulting from damage to or destruction of a revenue-producing facility or assets. An indirect loss could include extra expenses incurred to continue operations such as employee overtime to carry out necessary functions manually, air freight, rental expenses for temporary equipment.

The "loss of use" exposure is referred to in the insurance business as "Time Element Risk," as all such losses are related to the time period for which there is loss of use.

All ports are subject to varying degrees of the "loss of use" exposure. The measure of exposure is the amount of lost profit and continuing expenses, or extra expense incurred in operating alternative systems, or a combination of both during the period that damaged facilities are being repaired or replaced. These also include extraordinary expenses incurred in expediting the return to normal operations.

Channel Blockage

This can result from both direct and indirect causes including the sinking or stranding of vessels, weather related incidents affecting the shop channel (silting, shifting, etc.) or "Humpfrey the Whale" type incidents (a lost whale in the Sacramento ship channel forced closure of the channel during rescue operations).

Damage to Real and Personal Property

Any part of a port's facilities (docks, warehouses, silos, cranes, conveyor systems, storage tanks, etc.) is at risk of damage or destruction. Likely events include any of the perils that can damage property, such as fire, windstorm, explosion, flood, earthquake, vessel collision, etc. Business interruption loss is a consequential exposure resulting from damage to real and personal property.

Facilities Leased or Rented to Others

Many ports operate in a landlord capacity where land, warehouses, and docks are leased to others. In such cases, the potential "loss of use" exposure is generally governed by the terms of the lease or rental contract. If a port's contract requires continued payment of rent even though the property may be severely damaged or destroyed, then there may be little or no business interruption exposure to the port. However, typically, such contracts will contain clauses that cancel the obligation to continue rent payments because of damage to the facilities from "acts of God" or other causes. Care must be taken to determine if an exposure presented by any rental or lease agreement terms or conditions present risk of loss to a port.

Consequential Loss

Ports with warehouses for temperature/humidity controlled goods have a special exposure from interruption of refrigeration resulting in spoilage of stored goods.

Also, certain products may be stored in bulk tanks where the contents must be kept at fixed temperatures to allow for pumping, to prevent solidification, or to prevent a chemical reaction. Loss of temperature, fractures in tanks, or damage to equipment can result in substantial business interruption losses. Port tariffs will, in most cases, place liability for such loss on the customer. However, where such losses can be shown to result from the port's negligence, the tariff hold harmless agreement may not be enforceable.

Contingent Business Interruption Exposures

This is a loss exposure to a port resulting from third party property destroyed or damaged. Examples of contingent business interruption include:

- Damage to a non-owned lock that prevents vessels from using port facilities.
- Damage to a non-owned bridge that prevents or impairs the movement of rail, truck, or vessel traffic.
- Damage to the facilities of a crane manufacturer that delays delivery of a new crane for a dock. Without the crane, the use of the dock is limited from its intended operation with a resulting loss of revenue.
- Severe damage to a nearby manufacturing or processing plant that utilizes port facilities to import bulk raw materials or other necessary goods.
- Interruption of incoming utility service (gas, electricity, water) resulting from damage at utility facilities.

Contingent loss exposures are present in many situations and are often overlooked in the risk identification process.

Transit Business Interruption

This type of business interruption is a loss exposure from transportation of a critical piece of equipment or other property. For example, a loading system is being delivered by barge. The barge is involved in an accident causing substantial damage to the equipment. The planned start-up date is significantly delayed while the equipment is salvaged for repair, or replaced.

Loss of Information

This can involve loss of property comprising data processing media, other valuable records, and information in conventional form. If duplicate data and records do not exist, a port must incur the expense to reconstruct the lost information to the fullest extent possible.

Leasehold Interests

Ports holding tenancy under an advantageous lease can lose such advantages if the leased building is severely damaged or destroyed and new leased space must be arranged at a higher cost or less liberal terms. Inflation or high occupancy rates can substantially increase real estate values and the attendant cost of leasing space. A port with favorable leases should recognize the loss potential that exists should the lease be lost resulting in relocating to more expensive quarters.

Strikes

Employee relations will, at times, deteriorate to the point where strikes may occur. Failed labor negotiations can result in a strike, which may shut down a port facility. The principal difference between a strike and the other loss exposures discussed is that a strike is not inherently accidental, and does not, in itself, involve damage to or destruction of a physical asset.

Managing Environmental Hazards

Managing the risks associated with environmental hazards presents a number of unique challenges. If properly managed, loss exposures can be significantly minimized. One of the basic premises of minimizing environmental liability is having in place an action plan to respond to pollution contingencies. A key element in such plans is clear instructions concerning notification of appropriate governmental agencies. Some statutes, such as the Oil Pollution Act of 1990 and the Emergency Planning and Community Right-to-Know Act of 1986, place great emphasis on such notifications.

Also, knowledge of the growing field of environmental audits and the role of International Standards Organization's Environmental Management Standards is a crucial skill needed today.

It is important to have a basic understanding of some of the laws that affect the management of environmental hazards. In addition, knowing the agencies involved and the resources available can reduce critically important response time. The following is a summary of laws, agencies and other related information.

Organizations and Agencies

Federal

Environmental Protection Agency (EPA)

The purpose of the federal EPA is the protection of the environment today, and, for future generations to the fullest extent possible under the law. The Agency's mission is to control and abate pollution in the areas of water, air, solid waste, pesticides, noise, and radiation. EPA's mandate is to mount an integrated, coordinated attack on environmental pollution in cooperation with state and local governments. Recent Brownfields legislation changes what had been an adversarial relationship to that of a partnership between government and industry.

It should be noted that states have "Departments of Environmental Protection" that have delegated authority from EPA, as well as legislated state authority over water quality, air quality, hazardous materials, and waste management. These agencies can be involved in everything from construction permitting near wetlands to the proper disposal of fluorescent bulbs.

Occupational Safety and Health Administration (OSHA)

The Occupational Safety and Health Administration functions under the United States Department of Labor. Its primary purpose is to prevent workplace injuries and protect the health of America's workers. Its enforcement powers are largely derived from the Occupational Safety and Health Act of 1970. OSHA's staff of inspectors, investigators, engineers, physicians, educators, standards writers, and other personnel reaches out to the American public through technical assistance and consultation programs.

U.S. Coast Guard (USCG)

Founded in the 1790s as part of the Department of Treasury, the USCG is now part of the Department of Transportation. Its mission is to enforce the rules of navigation, including vessel traffic management and recreational boating safety, regulate merchant marine licensing and exams, administer vessel documentation, and oversee vessel response and shipboard oil pollution emergency plans.

Among the USCG responsibilities that may be of concern to risk managers are:

- Proper receiving, storing, and shipping of hazardous cargo
- Placarding and stowage of hazardous cargo
- Emergency response to hazardous cargo releases
- Inspection procedures for certain high-hazard cargoes
- Employee training and retraining on hazardous material regulations
- Fire prevention requirements on berths, piers, and vessels
- Local hurricane contingency planning
- Coordination of military deployments through the terminal

Additionally, the USCG often assigns some of their younger officers to a terminal or port to learn industry practices and procedures. This can be an excellent opportunity to educate future compliance officers as to the real problems and exposures faced by entities attempting to earn a profit while complying with applicable regulations.

Some pertinent regulations are:

- 33 CFR Part 126 (Explosives)
- 33 CFR Subchapter M (Oil Spill Liability)
- 49 CFR Subchapter C (Hazardous Materials regulations

U.S. Army Corps of Engineers (USACE)

USACE provides engineering, construction management, and environmental services to defense and civilian agencies, as well as to the nation. Some of the agency's many responsibilities include: planning, designing, building and often operating and maintaining projects that provide river and harbor navigation, flood control, water supply, hydroelectric power, environmental restoration, wildlife protection, and recreation; protecting U.S. waterways and wetlands; and undertaking disaster relief and recovery work. USACE also issues permits for dredging projects.

Federal Emergency Management Agency (FEMA)

Founded in 1979, FEMA is an independent agency of the government. The agency is responsible for the U.S. emergency management system and works to reduce risks, strengthen support systems and help people and their communities prepare for and cope with disasters regardless of the cause.

The range of FEMA's activities is broad and includes: administering the national flood and crime insurance programs; advising on building codes and flood plain management; coordinating the federal response to a disaster; and making disaster assistance available to states, communities, businesses, and individuals.

National Oceanic and Atmospheric Administration (NOAA)

An administration within the Department of Commerce, NOAA's mission is to describe and predict changes in the Earth's environment, and conserve and wisely manage the United States' coastal and marine resources. Four of NOAA's agencies are the National Weather Service (NWS), the National Marine Fisheries Service (NMFS), the Office of Oceanic and Atmospheric Research (OAR), and the National Ocean Service (NOS).

One of NOAA's many responsibilities is to promote safe navigation by managing the nautical chart data collection and information programs. The only official chartmaker, NOAA produces marine navigation and tidal current charts, as well as tide tables. Another responsibility is to administer agency programs that support the domestic and international conservation and management of living marine resources.

National Institute of Occupational Safety and Health (NIOSH)

NIOSH was established to conduct research on a national level to eliminate on-the-job health and safety hazards. NIOSH is responsible for identifying workplace safety and job health hazards and for recommending changes in health and safety regulations. NIOSH conducts research to study the effects of exposure to hazardous substances and other factors involved in occupational health and safety.

Non-Federal

Air Quality Management District (AQMD)

The Air Quality Management District controls emissions from a variety of stationary sources of air pollution. The AQMD continually monitors air quality at many different locations and notifies the public whenever air quality is unhealthful.

Board of Equalization (BOE), or its equivalent

For example, in California one of the functions of the Board of Equalization is to administer *Environmental Taxes* through the Environmental Fees Division. These *environmental taxes* include an annual Hazardous Waste Generator Fee and Waste Reporting Surcharge Fee, a quarterly Underground Storage Tank Fee, Extremely Hazardous Waste Permit Fee, and a Hazardous Substance Disposal Fee.

American Industrial Hygiene Association (AIHA)

The American Industrial Hygiene Association is engaged in protecting the health and well-being of workers and the general public through the scientific application of knowledge concerning chemical, engineering, physical, biological, or medical principles to minimize environmental stress and to prevent occupational disease.

National Fire Protection Association (NFPA)

This is a non-profit organization dedicated to fire safety, fire research, and education. It publishes a number of publications on fire safety and prevention.

Technical Resources

Chemical Transportation Emergency Center (CHEMTREC)

CHEMTREC provides emergency information about hazardous chemicals involved in transportation accidents 24 hours a day. The nationwide telephone number is 1-800-424-9300. Information is provided on response actions and procedures to follow in the event of a spill, leak, fire, or exposure.

Chemical Evaluation Search and Retrieval System (CESARS)

The Chemical Evaluation Search and Retrieval System is part of the ongoing cooperative effort to regulate toxic chemicals in the environment by the Michigan Department of Natural Resources and the Ontario Ministry of the Environment. CESARS contains profiles on chemicals of environmental concern. Each record consists of chemical identification information and provides descriptive data on up to 23 topic areas, ranging from chemical properties to toxicity to environmental transports and fats.

Chemical Information (CHEMINFO)

CHEMINFO provides comprehensive, practical, summarized occupational health and safety information on chemicals. Produced by the Canadian Centre for Occupational Health and Safety, occupational health specialist, each chemical profile uses non-technical language to describe potential workplace hazards and control measures. Each profile provides a detailed evaluation of health, fire and reactivity hazards, as well as recommendations on topics such as handling and storage, personnel protective equipment, accidental release, first-aid, and hazardous classifications.

Chemical Hazards Response Information System (CHRIS)

The Chemical Hazards Response Information System database represents the literal text of the United States Coast Guard printed CHRIS Manual. CHRIS was developed in 1985, and new records are added periodically. It was designed as a comprehensive source of emergency response information for those individuals in the transport of hazardous materials. However, it is useful for many emergency situations involving hazardous materials. Records for more than 1,300 materials are provided in English.

Federal Health, Safety, Labor, and Environmental Statutes and Their Regulations[1]

[Citations are to the United States Code (U.S.C.) or to the Code of Federal Regulations (CFR)]

To underscore the complexity of the legal system, a good example of the interplay between legal requirements that can lead to uncertainty to everyday activity is the legal treatment of a marine terminal. The law deals with the terminal at various times, and, occasionally, at the same time, as different legal entities. The uncertainty created by different liability concepts can be viewed as an administrative obstacle to implementing a risk management plan. For example, a marine terminal can be viewed as one of eight different legal entities, depending upon the facts. (See Exhibit I in Appendix B, page B--10 for a detailed discussion.)

The Clean Air Act (CAA)

Statute: The Clean Air Act (CAA), 42 U.S.C. §§7401-7431; 7501-7671q – **Regulations:** 40 CFR: *e.g.* Part 52 (EPA - Approval and Promulgation of State Implementation Plan); Part 63 (EPA - National Emission Standards for Hazardous Air Pollutants for Source Categories); Part 90 (EPA - Emission Standards for New Nonroad Spark-Ignition Engines at or Below 19 Kilowatts); Part 81 (EPA - Designation of Areas for Air Quality Planning Purposes); Part 82 (EPA - Protection of Stratospheric Ozone/Incorporation of Montreal Protocol Decisions); Part 89 (EPA - Control of Emissions of Air Pollution from New CI Marine Engines at or Above 37 Kilowatts).

The Clean Water Act (CWA)

Statute: The Clean Water Act (CWA), 33 U.S.C. §§1251-1387 (also referred to as the Federal Water Pollution Control Act of 1972), as amended by the Oil Pollution Act of 1990 (33 U.S.C. §§2701-2761; 46 U.S.C. §3703a) – **Regulations:** 40 CFR: *e.g.* Part 227 (EPA - Ocean Dumping Testing Requirements); Part 228 (EPA - Ocean Dumping Site Designation); 40 CFR Part 110 (EPA - Oil Discharge Program); 33 CFR: *e.g.* Parts 130-138 (USCG

[1] To the extent not pre-empted by Federal law, state health, safety, labor, and environmental statutes and their regulations would apply.

pollution regulations); Parts 150 and 154 (USCG - Response Plans for Marine Transportation-Related Facilities); 15 CFR: *e.g.* Part 990 (National Oceanic and Atmospheric Administration - Natural Resource Damage Assessments).

Comprehensive Environmental Response Compensation, and Liability Act of 1980 (CERCLA)

Superfund Amendments and Reauthorization Act of 1986 (SARA)

Statute: The Comprehensive Environmental Response Compensation, and Liability Act of 1980 (CERCLA), 42 U.S.C. §§9601-9675 (which includes the Superfund Amendments and Reauthorization Act of 1986 (SARA), Pub. L. 99-499 & 99-563, 42 U.S.C. §§9611, 9671-9675, 29 U.S.C. §655) – **Regulations:** 43 CFR: *e.g.* Part 11 (Department of the Interior - Natural Resource Damage Assessments: Type A Procedures); 40 CFR: *e.g.* Parts 51 (EPA - Requirements for Submittal of Implementation Plans), 279 (EPA - Standards for management of Used Oil), 300 (EPA - National Oil and Hazardous Substances Pollution Contingency Plans).

The Noise Control Act of 1972

Statute: The Noise Control Act of 1972, 42 U.S.C. §§4901-4918 – **Regulations:** 29 CFR *e.g.,* §1010.16 (OSHA - Longshoring and marine terminals); §1910.95 (OSHA - Occupational Noise Exposure).

Resource Conservation and Recovery Act (RCRA)

Hazardous and Solid Waste Act Amendments of 1984 (HSWA)

Statute: The Resource Conservation and Recovery Act (RCRA), 42 U.S.C. §§6901-6992k (which includes the Hazardous and Solid Waste Act Amendments of 1984 (HSWA), Pub. L. 98-616) – **Regulations:** 40 CFR: *e.g.,* Parts 261, 262, 264, 265, 270, and 271 (EPA - Hazardous Waste Treatment, Storage, and Disposal Facilities and Hazardous Waste Generators; Organic Air Emission Standards for Tanks, Surface Impoundments, and Containers); Parts 148, 261, 266, 268, 271, and 302 (EPA - Hazardous Waste Management System).

Hazardous Waste Operations and Emergency Response (HAZWOPER)

Statute: SARA – **Regulations:** The Hazardous Waste Operations and Emergency Response (HAZWOPER) Regulations issued by OSHA, as mandated by SARA – 29 CFR Part 1910

Toxic Substance Control Act of 1986 (TSCA)

Asbestos Hazard Emergency Response Act of 1986 (AHERA)

Statute: The Toxic Substance Control Act of 1986 (TSCA), 15 U.S.C. §§2601-2629 (which includes the Asbestos Hazard Emergency Response Act of 1986 (AHERA), Pub. L. 99-519, 15 U.S.C. §§2641-2671) – **Regulations:** 40 CFR: *e.g.* Parts 750 and 761 (EPA - Disposal of Polychlorinated Biphenyls (PCBs); Part 763 (EPA - Asbestos); Part 799 (EPA - Test Rule for Hazardous Air Pollutants).

The Emergency Planning and Community Right-to-Know Act of 1986 (EPCRA)

Statute: The Emergency Planning and Community Right-to-Know Act of 1986 (42 U.S.C. §§11001-11050) (EPCRA) – **Regulations:** 40 CFR *e.g.,* Part 372 (EPA - Toxic Chemical Release Reporting; Facilities Included; Toxic Release Inventory Reporting; Community Right-to-Know).

Longshore & Harbor Workers' Compensation Act (USL&H)

Statute: Longshore & Harbor Workers' Compensation Act (USL&H), 33 U.S.C. §§901-944; 948-950 – **Regulations:** 20 CFR *e.g.*, Parts 500-599 (Employees' Compensation Appeals Board); Parts 800-899 (Benefit Review Board).

Jones Act

Statute: Jones Act, 46 U.S.C. app. §688.

The Occupational Safety and Health Act of 1970

Statute: The Occupational Safety and Health Act of 1970, 29 U.S.C. §§651-678 – **Regulations:** 29 CFR Part 1910 (Occupational Safety and Health Standards).

CHAPTER 5: TREATMENT OF RISKS

RISK MANAGEMENT

The risk management function for ports is that management function responsible for:

- Identifying exposures to accidental loss that may interfere with the port's basic objectives
- Examining the feasible alternatives for dealing with these exposures
- Selecting the best risk management technique(s)
- Implementing the chosen techniques
- Monitoring the results of the chosen technique(s) to ensure that the risk management program remains effective

The objective of this specialized management area is to protect the port from catastrophic loss of assets, earning power, and personnel. An extremely important step in the risk management process is risk reduction. Only with effective control of identified risks can a port hope to achieve long term cost reduction. The control of these risks is achieved by effective loss control and safety programs designed to reduce both the frequency and severity of losses.

LOSS CONTROL

Loss control is a generic term covering a variety of techniques available to ports to handle the loss potential identified in the measurement step of the risk management process. Loss control has often been undervalued by management personnel and, consequently, those organizations spend substantially more of their resources on loss financing methods than on loss control programs. A properly run risk management program should first attempt to eliminate or reduce the severity and frequency of losses with loss control techniques. Those losses that then occur, in spite of these efforts, should be handled by the loss financing and other techniques chosen by the port.

The lack of hard, documented evidence of loss control effectiveness is the main reason why many entities expend insufficient resources on this important topic. Losses can be tracked by their cost to the organization, whereas losses prevented are not tangible measures that are readily convertible to budget line items. The benefits of loss control programs will normally be spread over many years. Reduced employee and public suffering are difficult to quantify. Therefore, the dollar savings are not readily calculable thus making cost/benefit analysis very difficult to perform.

The introduction of properly run safety/loss control programs into public entity management has resulted in documented cost savings. Graphic examples can be found in both public and private organizations throughout the United States. While much of this documented proof of savings is in the workers' compensation and automobile loss areas, considerable experience has also been documented in reduced frequency/severity of losses to property and buildings. In addition to the direct cost savings arising from reduced losses and/or premiums, public entities have enjoyed reduced employee lost time, enhanced employee morale, and other benefits.

Loss control can be broken down into five steps, all of which are relevant to ports.

1. Exposure avoidance
2. Loss prevention
3. Loss reduction
4. Segregation of exposure units
5. Contractual transfer for risk control.

Exposure avoidance is where a port makes a conscious decision to avoid adding a new operation or ceases a current one because the risk exposure is substantial. An example of exposure avoidance would be where a port makes a conscious decision not to provide a service such as pilotage because of the loss exposures inherent in such services.

Loss prevention is defined as the activities undertaken to prevent an occurrence that results in loss to the organization. Examples of loss prevention are: employee and fleet safety programs, housekeeping standards, operation and design planning and review for the purpose of preventing and/or reducing potential losses, and awareness programs designed to make employees and visitors aware of dangerous conditions or acts which can result in losses.

Loss reduction is any technique that lessens the amount of losses that do occur. Water sprinklers was the example used in the introduction of this *Guidebook.* However, loss reduction can be applied to areas not immediately recognizable. For example, the quick and fair settlement of workers' compensation claims or general liability claims following an injury has saved many organizations a substantial amount of money. The reason is people expect immediate attention following an accident. When they perceive that they are not receiving the proper attention, they may seek legal counsel. Attorneys' fees add another cost to the system.

Segregation of exposure units is where a port spreads its property values over a number of locations so that if loss occurs at any one location there will not be a high concentration of its assets at stake. An example of this application, is where a port parks its motor vehicles or equipment at several locations that are totally independent of each other instead of parking all at one location. When all vehicles are parked at one location they are all susceptible to loss or damage by a single localized occurrence such as fire and explosion.

Contractual transfer for risk control is the final method of loss control. Examples of transfer for risk control would be where contractors and others who are involved with the port would be required to provide agreements which indemnify the port in event of loss or hold the port harmless, and/or insurance to make sure the port is financially able to meet its obligations.

As mentioned earlier, the support of the port's management is critical to program success. Consequently, the board, counsel, or commissioners of the port should endorse a loss control or safety policy. An example of a safety policy is shown below. Notice how it spells out the responsibilities of all port employees. The policy also spells out the objectives of the loss control program or safety program.

Figure 6
Sample Safety and Loss Control Policy

PURPOSE:

The Commissioners of the Port of <________> highly value the safety and well being of both its employees and the public it serves. To provide a safe environment for each, we will constantly work towards:

- The maintenance of safe working conditions;
- The development of port policies and procedures which are consistent with its loss control programs designed to reduce the frequency and severity of bodily injury and property damage losses; and
- The strictest conformance to Federal, state, and local laws and ordinances.

To accomplish this purpose, the following responsibilities are assigned.

RESPONSIBILITIES:

Risk Management Department (or designated department): shall draft, promote, coordinate, and maintain a port safety program. The safety program will include educational seminars, safety meetings, and safety committees. The Risk Management Department is responsible for creating and maintaining a reporting and record keeping system that monitors accident frequency and severity. The Department shall work with all departments, customers, and vendors to insure that loss control and safety considerations are an integral element in the design, purchase, and use of buildings, equipment, tools, and work processes.

Departmental Responsibility: Each department shall take an active role in the programs developed and coordinated by risk management to ensure that safety programs reach each and every employee. Each department shall be held accountable for its own losses or its portion of insurance premiums.

Supervisory Responsibility: Supervisory personnel at all levels will be responsible for the safety of employees under their supervision and will be expected to conduct operations in a safe manner, following established rules and best practices at all times.

Employee Responsibility: All employees are expected to follow safe procedures and to take an active role in the task of protecting themselves, their fellow workers, their respective work areas, and the public using the port facilities.

Safety Committees

The establishment of safety committees is one example of programs that have been successfully implemented by many public entities in response to their safety and loss control policies. These committees are required under many state laws and recommended by OSHA. The safety committee advises management and employees on issues of safety and health.

Safety committees may be composed of management, employees, or both. If management does not directly participate, it is imperative that they support the activities of the committee. If there are unions in the port, they should have a representative included as a member. The National Safety Council lists the following items as responsibilities often assigned to safety committees.

- Actively participating in safety and health instruction programs and evaluating the effectiveness of these programs.
- Regularly inspecting the facility to detect unsafe conditions and practices and hazardous materials and environmental factors.
- Planning improvements to existing safety and health rules, procedures, and regulations.
- Recommending suitable hazard elimination, reduction, or control measures.
- Periodically reviewing and updating existing work practices and hazard controls.
- Assessing the implications of changes in work tasks, operations, and processes.
- Field testing personal protective equipment and making recommendations for its use or alteration based on the findings.
- Monitoring and evaluating the effectiveness of safety and health recommendations and improvements.
- Compiling and distributing safety and health and hazard communications to the employees.
- Immediately investigating any workplace accident.
- Studying and analyzing accident and injury data.
- Acting as advisory body to the port for all safety related problems.

The safety committee should be large enough to ensure adequate attendance and yet small enough to achieve the goals. In addition to on-the-job safety, it is advisable to have an off-the-job committee to support and promote safety activities for home and recreation. Employers incur similar indirect expenses for off-the-job injuries, illnesses, or missed work as for on-the-job. Other indirect expenses include productivity losses, hiring of temporaries, disruptions, etc.

The port safety committee should meet monthly, or whenever the committee chairman deems that such a meeting is necessary. Reports and recommendations arising out of the meeting should be distributed to employees and management.

If the fleet exposure is adequate the port may wish to consider a Vehicle Accident Review Committee (VARC). This committee should consist of drivers who receive additional training on the determination of preventability of accidents. The VARC reviews accident reports, police reports, maintenance reports, and other information that may lead to determination of cause. They make needed inquires of the supervisors and drivers when questions exist as to the issues surrounding an accident. They then make a determination as to the cause of the accident, and if it could have been prevented. If it is preventable due to driver error, the information is provided to management for action. If they find the accident preventable due to other than driver causes, they will make recommendations for the desirable corrective actions. The purpose of the committee is to prevent future accidents from the same cause.

Guidelines for committee development and the preventability of accidents can be obtained from the National Safety Council, state, and federal transportation agencies, and other groups such as insurance carriers, brokers and agents. The organization's safety personnel are often members of the VARC and safety committees.

Even with the establishment of safety policies, safety committees, and vehicle accident review boards, many public entities have found that there still is a problem of gaining complete supervisor support.

One technique that has worked effectively for many organizations is a charge back of premiums and losses, or a percentage thereof, to the departments which are responsible for the losses. Department heads are more inclined to support and participate in port safety programs when they are held responsible for their own losses and must budget for them. In addition, loss trends and safety problems can be more easily identified when losses are charged back to the appropriate department. When the losses of the port are financed by insurance, the basis for the allocation of insurance premiums among departments should be each department's proportionate share of losses. When the port has a self insured program, losses that occur can be charged back directly to the department that causes them. Of course, not all losses can be attributed to a certain department. The appropriate treatment for these losses may be to charge them to overhead accounts.

Many public ports nationwide are unable to employ safety specialists because of their small size. Just because a port is small does not mean it should not be developing safety programs. Most insurance companies have safety personnel that will develop safety programs for their clients upon request. The more a port can reduce its losses by loss control, the less the insurance company has to pay out of its pockets. Insurers offer many services to their clients, but insurance buyers must sometimes press them to get the loss control services that they desire.

Similarly, many insurance agencies and brokerage houses have trained safety personnel which can provide assistance in the development of safety programs. When negotiating insurance policy renewals, ask your broker(s) what services are included within the commission fees that are being paid. If safety consulting is provided, make sure that it is adequate, and they provide you with this service.

Finally, for those ports that retain a substantial portion of their own losses, there are independent loss control and safety specialists available to assist in the development of loss control programs.

Non-Insurance Transfer of Risk

One of the important methods of handling risk is transfer. The insurance mechanism is essentially a form of risk transfer. Other transfer techniques exist, including:

- Hold harmless agreements (indemnity).
- Requirements that others provide the port with insurance protection.
- Requirements that others provide minimum insurance coverage for themselves in order to defend suits against the port.

If properly handled, these non-insurance transfer techniques shift the port's risk-of-loss to another party. It is important to ascertain the contracting party's ability to pay its own losses, and limit the port's acceptance of another party's risk. The port and its attorneys should use these risk transfer techniques when dealing with contractors, suppliers, and lessees.

The person who contractually assumes the liability of another is known as the "indemnitor." The "indemnitee" passes the risk of loss to the indemnitor. It is important to understand the contractual transfer of risk from both the position of an indemnitee and indemnitor since a port 'may find itself in either position when negotiating contracts.

When a port assumes the liability of another, this creates a contractual liability exposure that is not normally covered under the standard general liability policy unless they are "insured contracts" as defined and limited in the policy. Generally insured contracts under standard policies are:

- Lease of premises;
- A sidetrack agreement;
- Any easement or license agreement, except in connection with construction demolition operations on or within 50 feet of a railroad;
- An elevator maintenance agreement; or
- That part of any other contract or agreement pertaining to your business (including an indemnification of a municipality in connection with work performed for a municipality) under which you assume the tort liability of another to pay damages because of "bodily injury" or "property damage" to a third person or organization. Tort liability means a liability that would be imposed by law in absence of any other contract or agreement.

Contractual liability protection to expand this coverage area can be added to the general liability policy by endorsement.

When the port either passes or accepts risk, this will have a direct effect on its loss experience and the price it pays for its risk financing. This area of risk management can be difficult and should be reviewed by your broker/agent and legal council. The rules and court interpretations vary by state and application.

Discussions of risk transfers by ports through non-insurance methods can be divided into two general categories: (1) contractual transfers of risk to contractors, lessees, suppliers, and (2) transfer of risk by port tariff provision.

Contractual Transfer to Contractors, Suppliers, Etc.

The use of the non-insurance transfer technique is more important to ports than most organizations because of the number of contracts that ports enter into with contractors, lessees, or suppliers. For those ports that operate solely as "landlords," the use of non-insurance transfers can be used to both control and finance losses.

There are many forms of indemnification language that are used by organizations in transferring responsibility for losses. Each port working with its attorneys must develop indemnification language which it feels comfortable with. Ports should make sure that the language used is reviewed on an annual basis to keep abreast of changes in the law and interpretations of such clauses. Below are samples of indemnification language used in regards to contractors. Each passes a different degree of risk on to the contractor. The indemnity language in the contract should be in bold or larger lype so it is conspicuous to anyone reading the contract.

Limited Form Hold-Harmless

"The contractor agrees to defend, protect, indemnify, reimburse and save harmless the Port of *'Insert',* their agents and employees, from and against all loss and damages including attorneys fees, by reason of liability imposed by law upon the Port of *'Insert'* for damages because of bodily injury, including death at any time resulting therefrom, sustained by any person or persons or on account of damage to property, including loss of use thereof, arising out of or in consequence of the performance of this work, provided such injury or damage is due to negligence of the contractor, his subcontractors, employees, or agents."

The limited form provides protection to the port where the contractor's activities or negligence causes harm to a third party. This really does not provide any more protection than what is normally found under the law. A contractor is responsible for those claims and legal fees that arise due to his sole negligence. A limited form indemnification is generally nothing more than an affirmation of the contractor's legal responsibilities. Thus, very little, if any, of the liability of the port may be passed on to the contractor.

Intermediate Form Hold-Harmless

"The contractor agrees to defend, protect, indemnify, reimburse, and save harmless the Port of *'Insert'*, their agents and employees, from and against all loss and damages, including attorneys fees, by reason of liability imposed by law upon the Port of *'Insert'* for damages because of bodily injury, including death at any time resulting therefrom, sustained by any person or persons or on account of damage to property, including loss of use thereof, arising out of or in consequence of the performance of this work, whether such injuries or damage is due to the negligence of the contractor, his subcontractors, the Port, their agents and employees, except only such injury or damage as shall have been occasioned by the sole negligence of the Port."

This intermediate form of hold harmless makes the contractor responsible for all claims and legal expenses which result from any negligence on his part or joint negligence by both the port and the contractor. Note that the contractor is not responsible for the sole negligence of the port. Where the port is solely negligent, no protection will be provided by the contractor. However, where both parties are at fault, instead of apportioning responsibility for a claim as would normally occur, the contractor assumes the full cost. Problems can arise when the parties end up arguing as to whether the contractor has any negligence or not. Thus, the hold-harmless language developed under intermediate hold-harmless form to eliminate possible conflicts could ultimately lead to a lawsuit among parties.

Broad Form Hold-Harmless

"The contractor agrees to defend, protect, indemnify, reimburse and save harmless the Port of *'Insert'*, their agents and employees, from and against all loss and damages, including attorneys fees, by reason of liability imposed by law upon the Port of *'Insert'* for damages because of bodily injury, including death at any time resulting therefrom, sustained by any person or persons or on account of damage to property, including loss of use thereof, whether caused by or contributed to by the Port and its agents and employees."

Under the broad form hold-harmless, the port is completely absolved from claims and legal expenses that arise out of contractor activities regardless of whether the port is fully responsible or not. Here the port can be found solely negligent and all claims costs and attorney fees would revert back to the contractor.

The hold-harmless language used will have an effect on a port's loss financing costs. The amount of risk passed onto contractors, lessees, and suppliers through the various indemnification forms presented above will influence insurance underwriters when they determine premium costs for port insurance policies. Therefore, deciding what form is appropriate should be an important negotiating point when entering into contractual agreements.

Local, state, or Federal law may affect hold harmless and indemnity agreements. It is important, therefore, when developing hold-harmless provisions or indemnity agreements to have your legal counsel review applicable local, state, or Federal statutes that might influence the contract. For example, many states do not allow construction contracts to require the contractor to indemnify the owner for his/her sole negligence. It is important to verify whether your state may have any legislative restrictions or prohibitions against indemnity and hold-harmless agreements.

Transfer of Risk by Port Tariff Provisions

In contrast to agreements between ports and their contractors, lessees, and suppliers, risk-transfer provisions in port tariffs have been limited by rulings of the Federal Maritime Commission (FMC) in rulings issued under Section 10(d)(1) under the Shipping Act of 1984 (46 U.S.C. app. §1709(d)(1)) and its predecessor provision, Section 17 of the Shipping Act, 1916 (46 U.S.C. app. §816).

The Commission has declared two categories of risk-transfer provisions invalid and published regulations prohibiting their inclusion in the tariffs of marine terminal operators regulated by the agency. The prohibitions are published in the Commission's regulations, 46 C.F.R. §514.4 (b)(3)(i) and (ii) (1997 ed.):

(i) *Limitation of liability.* Tariffs may not contain Tariff Rules purporting to limit liability for loss or damage in a manner that is prohibited by applicable statute or regulation.

(ii) *Exculpatory tariff provisions.* No terminal tariff may contain provisions that exculpate or otherwise relieve marine terminal operators from liability for their own negligence or that impose upon others the obligation to indemnify or hold-harmless the terminals from liability for their own negligence.

The first tariff-limiting provision applies to ocean carriers as well as to marine terminal operators, and is a general admonition that any tariff rule or provision included in a tariff filed with the FMC must comply with other provisions of law, such as the Carriage of Goods by Sea Act.

The second provision, prohibiting "exculpatory" clauses, applies by its terms only to marine terminal tariffs. It expressly prohibits a marine terminal operator from attempting to protect itself from its own negligence, whether by use of an exculpatory clause or by means of an indemnity provision in the tariff. This limitation has its origin in a line of Commission cases holding that it is unjust and unreasonable for a marine terminal operator to attempt to shield itself from the effects of its own misconduct.[1]

The risk transfer provisions which the FMC does not permit a port to include in its tariffs may very well be permissible in contracts between ports and their contractors, lessees, and suppliers. In contractual relationships, the parties bargain at arms length, and the resulting contract reflects the mutual agreement of the parties. If the port's demands are too onerous, the other party is under no compulsion to enter into the contract. The decision as to whether risk transfer provisions are agreed to is made based upon commercial considerations. Port tariffs, on the other hand, are unilaterally promulgated, and the users of the facilities of the ports and services lack the bargaining power of parties to contractual negotiations.

A word of caution is in order. The prudent risk manager should not expect that the FMC will necessarily endorse an onerous risk transfer clause in a lease that might be attacked under Section 10 (d)(1) as being unjust and unreasonable. The Commission decides cases in this area on a case-by-case basis, and the outcome of each case depends upon its own facts. For example, it has held some agreements which restrict competition in the tug business to be unlawful,[2] while it has found similar agreements to be proper.[3]

The Commission will, upon the complaint of a port customer (in this case a stevedore), examine the provisions of a terminal agreement which was reached in arms length bargaining, and hold them to be unlawful under the provisions, *inter alia*, of Section 10(d)(1), despite the fact that the stevedore obtained the benefits of the agreement for a number of months before complaining about its economic provisions.[4]

A port cannot protect itself by arguing that a "use equals consent" provision in a tariff creates a contractual relationship between the parties and thus justifies an otherwise onerous prohibition or restriction. The Commission has taken the position that a "use equals consent" clause adds no independent validity to provisions imposing liability. Regardless of the "use equals consent" provision, substantive restrictions or rules in the tariff are subject to FMC scrutiny under the reasonableness standard.[5]

Another area in which ports have attempted to shift risk of liability to their users involves the "borrowed servant" doctrine. This typically is the situation created when a stevedore company leases a container crane and its operator from the port, and the port tariff specifies that the operator is the "borrowed servant" of the stevedore, meaning that the port intends to shift

---

[1] See, for example, Pate Stevedore Co. of Alabama v. Alabama State Docks Dept., __F.M.C. __, 24 S.R.R. 1222 (1988); Lucidi v. Stockton Port District, 22 F.M.C. 19 (1979); and Truck and Lighter Loading and Unloading Practices at New York Harbor, 9 F.M.C. 505 (1966).

[2] A.P. St. Philip, Inc. v. Atlantic Land & Improvement Co., 13 F.M.C. 166 (1969).

[3] Petchem, Inc. v. Canaveral Port Authority, __ F.M.C. __, 23 S.R.R. 974 (1986) aff'd sub nom Petchem, Inc. v. Federal Maritime Commission, 853 F.2d 958 (1988).

[4] Ceres Marine Terminal, Inc. v. Maryland Port Administration, __ F.M.C. __, 27 S.R.R. 1250 (1997) now pending appeal in the U.S. Court of Apeals for the Fourth Circuit, Maryland Port Admn. v. Federal Maritime Commission, Docket No. 97-2418.

[5] West Gulf Maritime Ass'n v. Port of Houston Authority, 22 F.M.C. 420 (1980).

liability for the crane operator's actions to the stevedore. The FMC is hostile to "borrowed servant" provisions, and while not prohibiting them as a matter of law, the agency has twice refused to enforce them in recent years.[6]

Contractor Insurance Requirements

The use of hold-harmless or indemnification language is only effective if the party who accepts another's liability has adequate insurance or risk financing to pay for claims and attorney's fees. If they are unable to satisfy the judgement and legal fees, these costs could ultimately revert to the port. Consequently, the port should make sure that its contractors have adequate insurance protection. This is important for two reasons. First, if the contractor is unable to satisfy a judgment made against him, the person who was injured may ultimately make a claim against the port. When the contractor has adequate insurance, the injured party will be less likely to entertain such a notion to sue the port. Second, the port would find it desirous for its contractors to carry insurance should it decide to take legal action against the contractor.

There are a number of things that a port should include in its minimum insurance requirements to ensure that the contractors' insurance coverage is available when losses arise.

First, the contractor should name the port as an additional insured under its insurance contracts. On the surface, this seems to afford the port the insurance coverage of the contractor. However, a problem has arisen for a number of organizations that have become additional insured under other parties' policies. There is a provision in most insurance policies which addresses "other insurance." This provision states that the insurance in the policy is excess to any other valid and collectible insurance. Cases have arisen where a contractor's insurers have stated that coverage provided them is excess over what is carried by the additional insured. The end result is that the insurers of the contracting parties battle it out as to who is responsible. Court decisions indicative of issues relating to this problem are:

Gulf Oil Corp. v. The Mobile Drilling Barge Margaret, 441 F. Supp. 1 (E.D. La. 1975), *aff'd.* 565 F.2d 958 (5th Cir. 1978); see also, Old Republic Ins. Co. v. Concast, Inc., 558 F. Supp. 616 (SDNY 1984); compare, Musgrove v. Southland Corp., 898 F.2d 1041 (5th Cir. 1990); Honeywell, Inc. v. American Malousts Ins. Co., 441 NE 2d 348, 109 Ill. App.3d 955 (1982); Truck Insurance Exchange v. Liberty Mutual 428 NE 2d 1183, 102 Ill. App.3d 24 (1981).

To avoid a possible conflict between the ports insurers and those of a contractor, the contractor's insurance policy should state in the additional insured endorsement that the policy will provide primary coverage to the port for claims arising out of the contractual relationship regardless of policy language to the contrary. The policy should also state that premiums or deductibles are for the amount of the insured(s) named in the policy. It is important that the endorsement accurately depicts the agreement between the port and its contractor.

A second consideration is that insurance limits of liability should be based on the loss exposures generated by the contractual relationship. The contractual agreement should spell out what forms of insurance are required of the contractor. The required insurance coverages should be based on the "subject" of the contract being executed. Insurance coverages that may be required of contractors, suppliers, or lessees based on the nature of the contract could include:

- General Liability
- Wharfingers' Liability
- Warehouseman's Legal Liability
- Workers' Compensation (state and/or U.S. Longshore and Harbor Workers' Compensation Act) (USL&H)
- Business Automobile Liability
- Protection and Indemnity
- Jones Act Compensation

---

[6] Stevens Shipping and Terminal Company v. South Carolina State Ports Authority, __ F.M.C. __, 23 S.R.R. 684 (1986); and Southeastern Maritime Co. v. Georgia Ports Authority, __ F.M.C. __, 23 S.R.R. 941 (1986).

Third, the policy or endorsement should provide coverage for contractual liabilities, such as an indemnity agreement.

A hold-harmless agreement can pass liability back to the contractor but if the contractor does not have insurance protection nor the resources to satisfy the judgement and legal fees, all or a portion of the loss could revert back to the port. A similar problem could arise where the contractor has the appropriate insurance coverage but insufficient limits of liability. Again, the plaintiff could turn to the "deep pockets" of the port to fully satisfy the judgement. The insurance requirements section of the contract should define the minimum amounts of insurance to be required. The amount of insurance required of contractors, suppliers, or lessees should be based on the severity of the loss exposures generated. At the very minimum, a port should require a $1,000,000 liability limit from all contractors in addition to full workers' compensation protection. The more hazardous the contractor's operations, the greater the amount of insurance that should be required. To ensure that the contractor is maintaining the required insurance coverages, the port should be provided with "certificates of insurance" or copies of required insurance policies. All certificates of insurance and insurance policies should be kept current to satisfy the contract. As an additional precaution, the port should require that the contractor's insurance carriers provide at least 30 days notice to the port before limits and scope of coverage are materially altered or insurance protection is canceled.

Finally, it is important for the policy to provide coverage for the consequences of the port's own negligent acts (as opposed to the vicarious liability of the insured(s) named in the policy) that arise out of operations under the contract.

Certificates of Insurance

Many insurers have developed standard certificates of insurance which often contain provisions that may not be in the best interest of a port. Provisions often found in certificates of insurance that the port risk manager should be aware of include:

- Certificates often state that it is for "information purposes only" and that it does not confer any rights to the holder nor amend, extend, or alter the coverage afforded by the policies shown in the certificate.
- Cancellation notices of certificates often state the carrier will endeavor to mail written notice of policy cancellation to the certificate holder but failure to provide such notice imposes no obligation or liability upon the insurer.
- Cancellation notices in certificates also often specify the number of days advanced notice the carrier will endeavor to provide prior to canceling a policy. Contrary to what may be specified in an agreement between the port and contractor, insurers will often insert only 10 to 15 days' notice in these provisions.
- Ports should carefully review certificates of insurance provided by tenants and contractors. The certificate should be signed by the insurance company or its agent (the agent must provide written proof that he/she has authority to issue the certificate). Standard provisions such as those listed above may not be in the best interest of the port and should generally be rejected. Insurers will generally modify or delete these provisions where a port insists on their modification or deletion.

As the port is cognizant of the financial standing and policy-holder's reputation of its own insurance companies, it should also pay particular attention to the quality of contractor, lessee, or suppliers insurance companies. Contractors' insurance coverage should be provided by reliable and acceptable insurance companies. Insurers maintaining a good or higher rating are recommended (see discussion under Insurance Company Solvency Ratings on page 2--24.).

Maintaining files on the port's contractors and the insurance policies they have in force is an important process. To streamline this process, some ports have developed computer programs which track contractor insurance programs and alert the port to possible lapses. Ports may have the computer issue form letters when contractors' insurance policies are about to expire, warning them that evidence of insurance must be provided for the new period. Such a computerized program reduces the amount of clerical time involved and often leads to greater operating efficiencies. Developing a computer program that monitors contractors' insurance is not difficult, and the benefits derived from such a system can be substantial.

The Port of Los Angeles has created an endorsement (see Exhibit H, page B--9) that must be attached to all contractors, lessees, or suppliers' policies before port insurance requirements are satisfied. This endorsement deserves particular mention since it includes many of the factors discussed above on contractor insurance requirements. Notice how this endorsement spells out that the contractors' insurance coverage is primary, that the port will be notified 30 days prior to any major changes of insurance coverage, plus a host of other considerations. Such an endorsement provides much greater protection than the standard "Certificate of Insurance" which does not state that contractor coverage is primary or guarantee that the port will be notified 30 days prior to cancellation.

LOSS FINANCING

Loss Development

To fully understand and appreciate alternative loss financing methods, one first needs a basic understanding of claims reserving and claims payout patterns. All factors used in this segment are those of 1997.

Claims Reserving

Claims cost for a particular insurance policy year is made up of two components. The first component is the amount that has actually been paid to claimants, their medical providers, etc. The second component consists of reserves established to meet future obligations. Generally, these reserves are established on a claim by claim basis, based on the particular facts and circumstances of each case. These are often referred to as case reserves. Insurers may also establish a second reserve to cover the cost of claims which have not yet been filed. These are generally referred to as "incurred but not reported" or IBNR reserve.

Estimating claims reserves can be difficult and often imprecise because it represents an estimate of future obligations. To illustrate the difficulty, consider a workers' compensation back injury where the initial medical information indicates treatment with bed rest and traction. A reserve is established of $1000 indemnity and $500 medical to cover two weeks of lost work and associated medical treatment. Following this treatment, the employee continues to "experience pain" and further medical tests indicate surgery is necessary. The insurer raises the reserve to $4,000 indemnity and $10,000 medical. This emergency surgery fails to relieve the pain, and a second surgical procedure is undertaken. The second procedure also fails to correct the injury, and the employee is determined to have a permanent partial disability. The reserves are once again increased to $65,000 indemnity and $40,000 medical.

The transition of reserves from initial estimates to final cost is referred to as "development" or "loss development." Historically, claims reserves develop upward (increase). National statistics indicate that it takes claims reserves from one policy year, five years or more to fully develop to their ultimate cost. For some insurance lines such as product liability, it may take 10 to 20 years for claim costs to develop fully. Figure 7 on the next page provides a general overview of loss development factors for several lines of insurance. The reserve development will vary depending on the organization, geographic location, reserves and claims handling practices, etc.

Claims Payment Patterns

To appreciate the benefits of various loss financing techniques, one must understand claims payment patterns.

The important element is that it takes many years to pay off the total claims incurred in a single insurance policy year. Workers' compensation is a good example. The incurred to ultimate development for a loss which occurs in one policy year may take up to 13 years. The development factors vary by jurisdiction and type of claim. A typical workers' compensation payment pattern is as follows:

Figure 7
Loss Development Factors

Months from Policy Inception	Workers' Compensation	Automobile Liability	General Liability Including Products
12	1.612	NA	NA
18	1.437	1.154	3.966
24	1.261	1.114	3.169
36	1.171	1.045	2.082
48	1.131	1.019	1.600
60	1.109	1.009	1.390
72	1.095	1.005	1.290
84	1.830	1.000	1.228
96	1.075	1.000	1.183
108	1.050	1.000	1.160

* To estimate ultimate claims cost, multiply total incurred (reserved plus paid) losses by the factor in the above table which corresponds to the valuation age of the loss. For example, $100,000 of workers' compensation losses at 12 months would be multiplied by 1.612 to find the expected ultimate cost.

Year of Payment	*Percent Paid Out**
1st	22
2nd	25
3rd	15
4th	9
5th	6
6th	4
7th	3
8th	2
9th	1
10th	2
>10	11
	100

* Annually

The claim payment lag occurs for a number of reasons. Claims will occur throughout the year and some will take longer to treat and close out. A serious injury may require prolonged medical treatment. A contested claim must be heard by a State Board or appropriate judicial body. Even when a serious claim is well valued, it can take time to close it out as the workers' compensation system is predicated on benefits being paid in weekly installments. As an example, an employee who is considered temporarily totally disabled may be paid $425 per week. This same claim, however, may carry a total estimated reserve of $60,000 or more, even though the obligation is only to pay the prescribed weekly installment. In such a case, the entire estimate claim cost of $60,000 would be recognized as a liability. The difference between the estimated total cost and the amount actually paid is the reserve for future estimated payments.

Payment patterns for claims vary by line of insurance coverage, jurisdiction, and claims management practices. Property damage claims generally are paid out in a relatively short period of time. Liability and workers' compensation claims tend to be paid over a longer period. Figure 8 provides a schedule of representative payout patterns for workers' compensation and general and automobile liability claims. It should be noted that these averages are based on national statistics. The payout distributions of individual organizations will vary from this. It is important, therefore, that each organization develop its own payout profile based on credible historical loss data, if possible.

Figure 8
Claims Payout Profile
As a Percentage of Ultimate Incurred Losses

Months from Policy Inception	Workers' Compensation	General Liability	Automobile Liability
12	22	8	32
24	25	10	31
36	15	12	16
48	9	12	10
60	6	12	5
72	4	9	2
84	3	7	1
96	2	5	1
108	1	4	0
120	2	3	1
>120	11	18	1

Since claims reserves have an investment value until they are finally paid, the interplay between the creation of reserves, timing of claims payments, and the investment value of unpaid reserves can have a significant impact on the cost of an insurance program. Figure 9 illustrates this interplay and its impact on cost. For ease of understanding, the illustration is limited to a single policy year for workers' compensation and is limited to 10 years, although 11 percent of claims remain open and will be paid out after the 10-year cut-off date. From this illustration, it can be seen that the interplay or "cash flow" of these components can have a significant impact on costs. It should be kept in mind that the illustration is for a single insurance year. The cost impact becomes even more significant when one considers multiple insurance policy years.

Loss Financing Alternatives

Loss financing can be defined as a plan permitting a port to provide funds to handle losses that occur. Loss financing alternatives can be broken down into loss transfer and loss retention alternatives. Loss transfer alternatives include insurance and non-insurance techniques. Non-insurance techniques are generally achieved through contractual transfers using indemnification or hold harmless clauses such as often exist in a port's lease agreement. Since these are discussed in greater detail in another section of this *Guidebook*, the emphasis of this section is on insurance loss funding techniques.

Figure 9
Illustration of Workers' Compensation
Loss Development, Payout Profile, and Investment Value of Unpaid Reserves

	Months from Inception									
	12	24	36	48	60	72	84	96	108	120
A. Loss Development	620,000	793,000	854,000	884,000	902,000	913,000	923,000	930,000	952,000	1 M
B. Claim Payout - Period	220,000	250,000	150,000	90,000	60,000	40,000	30,000	20,000	10,000	20,000
B1. - Cumulative	220,000	470,000	620,000	710,000	770,000	810,000	840,000	860,000	870,000	890,000
C. Unpaid Reserves (A-B1)	400,000	323,000	234,000	174,000	132,000	103,000	83,000	70,000	82,000	110,000
D. Investment Income - Period	20,000	16,150	11,700	6,700	6,600	5,150	4,150	3,500	4,100	5,550
- Cumulative	20,000	36,150	47,850	56,550	63,150	68,300	72,450	75,950	80,050	85,550

Assumptions: (A) Workers' compensation ultimate losses of $1,000,000 (1M).
(B) Investment rate of 10% simple interest.

Another financing method (that began as a transfer method but now may include insurance) is pooling. Groups of similar entities pay the group's collective losses thus evening out the annual costs and softening the impact of occasional large losses. Insurance is the most commonly used means of providing funds for those situations when assets or earnings could otherwise be impaired by some unforeseen or unpredictable event. With the possible exception of the federal government, insurance generally plays some role in the loss financing programs of all organizations.

When insurance markets are "soft," i.e., most coverages are available and affordable, insurance may be the best choice. Most ports experience difficulty obtaining some coverages so that port risk managers know it is not the only means for loss funding. In some situations, full insurance may be appropriate. However, many exposures are insured today for which the purchase of insurance may not be necessary or for which alternative financing approaches may prove more efficient and cost-effective.

Insurance contracts transfer the risk of loss from the port to an insurance carrier. The amount of risk transferred depends on the limits of liability, the deductible or self-insured retention level, policy conditions and exclusions, and the rating plan. Rating Plans can be classified as guaranteed cost or loss sensitive.

Guaranteed Cost Plans

Guaranteed cost programs are often referred to as prospectively rated insurance plans. They provide that for a fixed annual premium, the insurer will pay for all losses incurred during the policy term. While the premium is generally considered fixed, typically the premium rate is constant while the premium is subject to an adjustment due to variation in the exposure rating base used to calculate the premium. As an example, a port may obtain a workers' compensation policy that provides for a premium rate of 25 cents per $100 of payroll. If the port generates $100,000 of payroll, its premium would be $250. However, if the port generated $150,000 of payroll, its premium would be $370.

Some insurers offer guaranteed cost programs that incorporate a dividend feature. The dividend under these programs is generally not contingent upon individual loss experience. The dividend is generally stated as a percentage of standard premium and payable after expiration of the policy. Generally, the dividend must be declared by the insurer's board of directors and approved by the state insurance departments. In evaluating insurance proposals, it is helpful to evaluate the historical dividends paid by the insurance company. However, it should be kept in mind that by law, insurers cannot guarantee the payment of future dividends.

Loss Sensitive Rating Plans

These premium rating plans tie insurance premiums to the actual loss experience of the port. They go by a variety of names, including retention and retrospective rating plans. They are generally considered viable for those ports which generate large premium volumes or where frequency and severity of loss can be forecast with some predictability.

Retention plans are generally limited to workers' compensation exposures only. Under a retention plan, at policy inception the insurer calculates the manual premium as if it were for a guaranteed cost rated plan. A retention factor covering the insurer's overhead, direct expenses, and profits is established as a percentage of the manual premium. A loss conversion factor covering loss adjustment expenses may also be stipulated.

During the policy year, the manual premium is paid to the insurer. Generally, six to eight months after policy expiration, the actual premium is calculated. The actual premium is calculated by applying the retention factor times the manual premium plus incurred losses times the loss conversion factor. The sum of these is the actual premium. If the actual premium is less than the manual premium paid to the insurer, the policy-holder receives a premium dividend or return. The manual premium is generally considered the maximum premium which an insured port can pay. Therefore, if the calculated actual premium exceeds the manual premium, the port is not required to make up the difference to the insured. Some insurers will continue to recalculate the actual premium for several years after expiration of a policy to account for loss development in reserves and for claims which are slow to surface. Other carriers perform the actual premium calculation only once but add an "incurred but not reported reserve" to the equation to account for loss development.

The advantage that these plans have over a guaranteed cost rating plan is that it provides the opportunity to reduce cost where a port has favorable loss experience. Also, since the maximum premium is generally equal to the manual premium, the port is guaranteed a fixed maximum insurance cost. As a general rule of thumb, ports that generate workers' compensation premiums in the range of $100,000 to $175,000 and have good loss control and better than average loss experience may find these plans advantageous.

Retrospective rating plans also tie premiums to actual losses by determining the actual premiums after the expiration of the policy. There are five basic retrospective rating plans which are referred to as Plans A, B, C, J, and D. Plans A, B, C, and J are used solely for workers' compensation exposures. Plan D can combine workers' compensation, general liability, and automobile exposures.

Plan A is a retrospective plan without surcharges, where the policy-holder's maximum premium will not exceed the standard premium. It's comparable, therefore, to a retention plan. Because the plan does not allow surcharges, the premium savings available to a port are limited by a relatively high basic and minimum premium requirement. This rating plan typically appeals to a port which has poor loss experience that it hopes to improve.

Plan B allows for a small surcharge should the insured port incur poor loss experience. This plan, typically, appeals to a port with relatively good experience and financially able to risk the possibility of incurring a small surcharge above its manual premium, in order to obtain a reduced basic and minimum premium.

Plan C eliminates the minimum premium factor in return for larger surcharges if the port's losses are heavy. The elimination of the minimum premium provides the opportunity for greater premium savings compared to Plan B. However, the surcharges are generally higher. This plan is beneficial to a port which generates a substantial premium volume and relatively low losses.

Plan J provides for a slightly higher minimum premium than Plan B, but the maximum is lower. A port with poor loss experience would not incur as high a premium as it would with Plan B. A port with favorable experience would not save as much premium because of the higher minimum.

Plan J generally appeals to a port whose losses are relatively stable from year to year and fall within the range of average to slightly above average expected losses.

Plan D permits workers' compensation, general liability, and automobile exposures to be combined into one master rating plan. Plan D, because it combines multiple lines of insurance and allows insurers almost infinite variations in plan rating factors, permits greater flexibility in designing the plan for a port. Typically, these plans are used by larger ports which generate a substantial premium volume for workers' compensation, general or automobile insurance.

As with other rating plans, the starting place of a retrospective plan is the standard premium. For workers' compensation, this premium is developed by manual rates. General and automobile premiums are generally based on exposure units, i.e., square footage and number of automobiles.

Under a retrospective rating plan, the insurance company charges a percentage of the standard premium, called the "basic premium," to cover its costs to administer the program. A maximum premium is established which is the largest amount which can be charged the insured. A minimum premium is also established which is the lowest premium which the insurance company can receive. A loss limitation may be established which limits the maximum amount the insured can be charged for any one claim under the rating formula. In addition, a loss conversion factor is established which is applied to incurred losses to reimburse the insurance company for loss adjustment cost. A tax factor is applied to the premium developed under the rating formula to meet the premium tax requirements of the various states. Figure 10 provides an illustration of the premium calculation under a retrospective rating plan.

The standard premium is paid to the insurer during the policy year. The actual premium is calculated, typically, 18 months after inception (six months after policy expiration). The formula is the basic premium plus losses times the loss conversion factor, both times the tax multiplier. If the amount calculated is less than the standard premium, the insured receives a return premium. If the amount is more, an additional premium charge may be made by the carrier depending on the retrospective rating plan being used. The total premium an insured can incur is limited by the minimum and the maximum premium factor. Generally, the retrospective premium is re-calculated every 12 months until such time as it is determined that all losses are properly valued.

In a normal retrospective rating plan, the losses used to determine the retrospective premium are the incurred losses which are the sum of paid losses and the reserves established by the carrier as its estimate of the future cost of settling known open claims. The amount of reserve dollars that can be set aside by an insurer to pay future claims can be substantial. It must be remembered that none of these reserve dollars have in fact been paid out to claimants. Charging premiums on the basis of reserve dollars, therefore, denies a port the use of monies it could otherwise invest and generate income.

Two approaches have been developed by insurers to respond to this problem. The first is named a "depressed premium plan." In plans of this nature, the insurer estimates both the "standard" premium applicable to the insured and the actual retrospective premium which would be calculated at the first retrospective adjustment. Instead of the policyholder paying the insurer the standard premium as it does under a normal retrospectively rated plan, the estimated first retrospective premium is paid during the first 12 months of policy coverage. Since the retrospective premium is generally less than standard premium, this provides the insured with a substantial cash flow benefit. A normal retrospective adjustment is then performed based on losses evaluated as of 18 months after policy inception and every 12 months thereafter until all claims are closed.

Even though this approach materially improves cash flow over a normal retrospective rating plan, premiums are still based on incurred losses. The result is that the benefits derived from holding unpaid loss reserves accrue to the insurance carrier instead of the port.

In response to this disadvantage, insurers under certain circumstances have consented to the use of a retrospective rating plan in which premiums are based on paid losses rather than incurred losses. "Paid loss retrospective plans" are not standardized and may vary significantly among insurers. Typically some important elements are changed in the way a plan is developed compared to an incurred loss retrospective plan. Included in these changes are:

- The loading for claims overhead and the administration contained in the loss conversion factor continues to be applied against incurred losses and not paid losses to develop the charge used for normal loss handling expense.

- The insurer may make a charge to offset its loss of profits from no longer being able to invest claims reserves. This additional charge is generally hidden in the basic or minimum premium factor.

- Since the insurer is not collecting the full amount of premium, some form of collateralization is typically required for the difference between the standard premium and that premium actually being collected. The four most commonly used forms of collateralization are (1) a letter of credit, (2) a surety bond, (3) a compensating balance account, and (4) a secured interest bearing note.

- A claims escrow deposit, usually in the amount of an estimate of two months paid claims, may also be required. Alternatively, first year premium payments for the policy may include an estimate of annual paid claims in which event the claims escrow account would not be used.

- The plan may also contain a stipulation that the premium calculation will convert from a paid loss to an incurred loss retrospective rating plan after a specified number of premium calculations or months from policy inception. This time period can vary substantially. It should be carefully reviewed by any port considering a paid loss program. If the conversion period is relatively short, substantial cash flow benefits might be lost.

Figure 10
Retrospective Rating Plan
Premium Calculation

Assume:

A. Workers' Compensation Manual Premium of $1,300,000
B. Incurred Losses of $700,000
C. Retrospective Rating Plan Factors of:

Basic:	.18	
Loss Conversion Factor:	1.12	
Premium Tax Multiplier:	1.039	
Minimum Premium:	.19	
Maximum Premium:	1.15	
Incurred Losses:		$ 700,000
Loss Conversion Factor:		x 1.12
		$ 784,000
Basic ($1,300,000 x .18):		+ 234,000
		$1,018,000
Tax Multiplier		x 1.039
Total Retrospective Premium		$1,057,702
Less: Premium Deposit		$1,300,000
Premium Returned to Policyholder		($242,298)

Retention Loss Financing Alternatives

Retention can simply be defined as assuming loss within the financial structure of the port. Retention loss financing alternatives include self-insurance with or without pre-planned funding and captive insurance company approaches. Insurance policy deductibles are a form of self-insurance, although the insurer is still obligated to defend the port. For self-insured retentions, the port would defend itself until the claim costs exceed the retention amount.

Self-Insurance Without Pre-Planned Funding

This type of funding generally involves assuming losses within the financial structure or operating budget of the port without the benefit of pre-planning or setting aside funds for the purpose of paying losses. Generally, this is the most efficient and cost effective financing method for those risks which represent a low severity and high frequency of loss. An example of this might include thefts of office supplies or automobile collision losses. Improper loss identification techniques which fail to discover risks can, unfortunately, force the port to accept this alternative for larger unexpected losses as well.

Self-Insurance With Pre-Planned Funding

This alternative can simply be defined as assuming the risk of loss within the financial structure of the organization and simultaneously developing a plan for permitting the port to successfully finance the cost of losses that it has retained. Self-insurance is generally a viable alternative only where there is low to moderate severity of loss potential. While self-insurance can be an efficient and cost effective method of financing losses, other factors should also be considered in determining the feasibility of its use. Workers' compensation is one loss exposure which ports may choose to self-insure. Workers' compensation, however, is regulated by each state. Self-insurance of workers' compensation, therefore, requires approval from the state, which is generally granted only when a port demonstrates its financial stability and ability to meet workers' compensation obligations. In addition, some states do not allow self-insurance.

A port may or may not be able to self-insure its general and automobile liability exposures because of requirements in bond indentures, mortgages, or other agreements that require the purchase of insurance. Automobile insurance is often mandated by state statutes and approval from the state may be required to self-insure. Also, where the port is required to provide proof of general or automobile liability insurance, the use of self-insurance may result in a significant expenditure of time in convincing the requesting party that its interest is fully protected by the port's self-insurance plan. While some larger ports may find self-insurance viable for general and automobile liability exposures, for most ports it is typically only a viable alternative for workers' compensation obligations. For this reason, the remainder of this discussion centers on workers' compensation. However, the same principles would apply to programs self insuring other exposures such as general and automobile liability.

A self-insurance plan may be viewed as consisting of a number of distinct components which work in unison. The components typically consist of:

- *The Funding Mechanism* – This is the nucleus of the plan. It may exist as a separate and distinct fund or trust in which funds are already set aside or merely be a bookkeeping entry within the port's budgets. The exact structure and operation of the plan's funding mechanism will depend on the preferences of the individual port. For control purposes, it is generally preferable to have all contributions to and expenses of the plan flow through the funding mechanism.
- *Excess Insurance* – Due to the potential severity of loss exposures, excess insurance protection is generally purchased for the self-insured plan. In many cases, it may be required by a state's regulatory body before approval is granted to self-insure. Specific excess insurance comes into play when a single claim exceeds the amount retained or assumed by the self-insurer. Aggregate excess insurance limits the *maximum annual* amount retained for all claims by the self-insurance fund.

- *Administration* – This includes the entire process of adjusting, processing, and administering claims. This can sometimes be handled in-house by port staff, or services can be purchased from outside sources who are experienced in claims handling. Outside sources would include independent adjusting companies as well as the claims departments of insurance companies.

- *Safety and Engineering* – Safety and engineering services are often overlooked in a self-insurance plan with the result that claims may increase in both frequency and severity. Safety and engineering programs should be an integral part of a self-insurance plan. The ultimate success of a self-insurance plan is directly related to the ability of the port to control claims frequency and severity. Services can be performed in-house or purchased from independent firms and insurers.

- *Legal Defense* – Legal defense for contested worker's compensation claims is generally provided by insurers under insured programs. The cost of this is generally spread over all policyholders and hidden in the insurance premiums. A port implementing a self-insurance program will need to replace these legal services. The cost can vary significantly and should be evaluated in planning any self-insurance program. (These costs are typically easier to identify in insured general and automobile liability programs because these costs are generally displayed separately in loss experience reports as "allocated claim expense.")

- *Bonds and Assessments* – For approval to self-insure workers' compensation, many states require that a surety bond or other collateral be posted. The amount of the surety bond will vary by state. In addition, the port may be subject to various assessments by the state for such things as second injury funds, the administrative cost of the state's self-insurance regulating office, etc. The amount and type of assessments vary by state. If the port employs longshore employees, it will be subject to federal assessments for its USL&H worker's compensation.

- *Other Services* – A self-insured plan may require other services in addition to those listed above. Examples might include rehabilitation services or management information systems (MIS) capabilities for loss statistical reports. These services often can be obtained through the broker, claims administrator, one of the other service providers, or through entirely independent sources, depending on the desires of the individual port.

Captive Insurance Company

The captive insurance company is generally not used as a loss funding technique for ports. However, under certain circumstances, the captive approach might have some application. In addition, insurance programs of lessees, contractors, or others having dealings with ports may involve captive insurance companies. Therefore, a basic understanding by the risk manager of this technique is desirable. For this reason, a general overview of this technique is included in the *Guidebook*.

A captive insurance company is a limited purpose insurance company established and owned by an organization (or group of organizations) for the primary purpose of underwriting the insurance of its owner(s). Captive insurers may take several forms. A "pure captive" is generally considered a wholly owned subsidiary created to insure the risks of its parent owner. An "association captive" is an insurance company formed by a group and is generally created to insure those risks of all members of the group. A final captive form, the "rent-a-captive," sometimes referred to as the "non-equity" captive, is simply a technique by which an organization rents or purchases the use of an existing captive insurance company. This approach is typically used by organizations wishing to gain the advantages of a captive, but for economic or other reasons, ownership is not appropriate.

Captive insurance companies can be domiciled either on or offshore. Bermuda is perhaps the most popular offshore domicile for captives. However, the Grand Caymans, Bahamas, Barbados and other locations are also captive domiciles. Colorado, Tennessee, and, most recently Vermont, have been the more active domiciles for captives within the United States.

In selecting the domicile for a captive, factors to be considered include capitalization requirements, investment portfolio regulations, exchange controls, and the infrastructure existing for professional, banking, communications, and other services.

Captive insurance companies sometimes write insurance on a direct basis. However, statutes in various jurisdictions generally require an insurance company to be licensed in order to write certain lines of insurance such as workers' compensation or automobile liability. Due to the expense and the administrative effort required to meet and maintain licensing, most captive insurance companies operate as re-insurers. Under this arrangement, a licensed commercial insurance company would initially insure the risks of the port. The commercial insurer then enters into a reinsurance contract with the captive insurance company whereby the captive assumes the premiums and losses of the policy issued by the commercial carrier. This is referred to as a "fronting" arrangement.

Under a fronting arrangement, a commercial insurer is paid a fee for the use of its facilities and filings. However, because of the reinsurance arranged with the captive, it does not assume the risks under the policies it issues. To maintain this risk-free posture and offset the impact on its financial position in dealing with a non-admitted reinsurance source, the fronting company will generally require the captive to furnish a letter of credit or other security equal to the amount it reinsures with the captive. Figure 11 provides a schematic of a possible structure of a port's risk management program incorporating a captive insurance company. Due to the feasibility of programs incorporating captives, the situation of a port's program can vary significantly from the diagram.

The captive, of course, needs to be capitalized. Capitalization requirements vary by domicile. Most jurisdictions have regulations establishing minimum capital requirements, solvency ratios, and, in some instances, investments portfolio regulations. For example, in Bermuda, the minimum capitalization is $120,000. In Vermont, it is $120,000 and in Colorado, it is $400,000 plus $350,000 surplus for a single owner captive. One exception is in the rent-a-captive approach where a rental fee can be paid to an existing captive insurer.

Many jurisdictions have established regulations or guidelines that the captive must meet. For the most part, these are "minimum" requirements that most captives must follow. A captive insurance company program is very similar to a self-insurance plan in terms of services that must be provided. In addition to the services such as claims adjusting, safety, and engineering, arrangements must be made for the captive's management. Generally this is done by retaining a professional management firm. Insurance companies, brokers, and independent firms can be retained on a fee basis to manage a captive. The captive manager's responsibilities include coordinating the premium and loss payments with the fronting company, handling the captive's bookkeeping, arranging for auditors, and preparing and filing reports required by insurance regulators. Captive managers may also assume responsibility for arranging the excess insurance protection of the captive or managing the investments of the captive.

The captive achieves essentially the same results as a self-insurance program and has the same advantages as a self-insurance program plus two additional advantages:

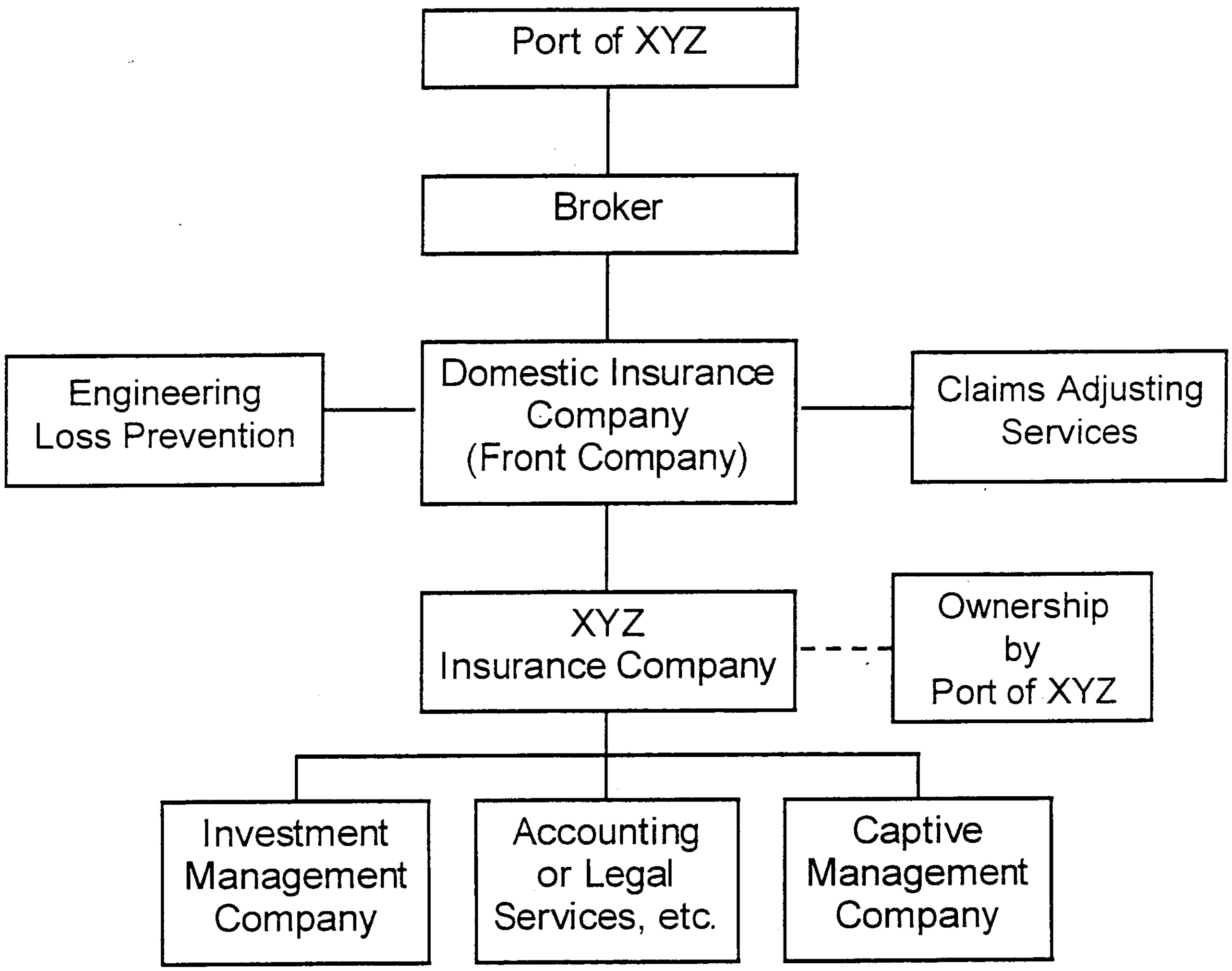
- It provides access to reinsurance markets that may help to limit the retention within the captive.
- It may be feasible for the captive to join reinsurance pools to allow for risk sharing or serve as a vehicle for pooling resources and providing a better spread of risk when several ports form an association captive.

A captive may also have disadvantages that must be recognized:

- There is no spread of risk in a single owner captive.
- The capitalization of a captive may involve a significant drain of cash depending upon the location of domicile, the extent of regulation, and the amount of insurance to be written.

- The cost of a captive may exceed those of other loss funding alternatives in some circumstances. This may be particularly true during very competitive insurance market cycles.

Figure 11
Captive Insurance Company



[Schematic of a possible structure of a port captive insurance company program.]

CHAPTER 6: INSURANCE COVERAGES

This chapter is devoted to a basic discussion of insurance policy coverages, terms, conditions, and exclusions. Due to the variety of activities and resulting exposures to loss, it is impossible to cover every type or form of insurance a port may purchase. The emphasis of this section, therefore, is on those insurance coverages common to most ports or which may be encountered by port risk managers.

This section often refers to "standard forms." However, it should be noted that while there has been a move by the insurance industry toward standardization, policy language, provisions, terms, and conditions can vary between insurers. Due to this, a port should review so called "standard policy forms" to ensure that the coverage is appropriate for its activities and exposures. To assist ports in their analysis and evaluation, the discussions in this section will highlight some of the more important aspects of the policies.

Insurers are often willing to modify or alter the standard provisions or exclusions of their policy forms. Some modification can be achieved by the use of pre-printed endorsements. Sometimes the development of special language or provisions for an endorsement or even the entire policy is required to meet particular circumstances. The latter method is often referred to as a "manuscript endorsement" or "manuscript policy." The important point to keep in mind is that many of the provisions of insurance policies are subject to modification to meet a port's particular needs and circumstances.

PROPERTY – DIRECT DAMAGE

Any discussions of property loss exposures can be broken down into two categories: (1) the value of the property subject to loss and (2) the loss potential associated with that property. In this section, it is the first category with which we are concerned, i.e., the loss of physical port assets. The second category is discussed in the next section of the *Guidebook*.

Named Perils

The basic Fire Insurance policy covers direct loss by fire, lightning, and removal of property from premises endangered by fire. The Extended Coverage Endorsement broadens the policy by extending coverage for the perils of windstorm, hail, explosion, riot and civil commotion, damage by aircraft or vehicles, and smoke damage. A common method used by many for remembering the perils covered by the Extended Coverage Endorsement is the acronym "WHEREAS" (Windstorm, Hail, Explosion, Riot and Civil Commotion, Aircraft and Automobile, and Smoke).

The basic Fire Insurance policy can also be extended to cover the perils of vandalism, malicious mischief, and sprinkler leakage. A policy insuring specific perils enumerated is generally referred to as a Named Perils policy.

All Risks

An alternative form of coverage which provides broader protection than a Named Perils policy is an "All Risk" form. Unlike Named Perils coverage, which provides coverage for only those specifically scheduled perils, an All Risk policy provides protection against all perils causing direct physical loss unless otherwise excluded. Naturally, there are certain risks such as wear and tear which underwriters do not wish to cover. These are the items excluded. The advantage of All Risk coverage is that the burden of proving that a loss is not covered is shifted to the insurer. In a Named Peril policy, the burden of proving that a loss was caused by a covered peril is the responsibility of the port.

There are two customary approaches to providing All Risk insurance. One is an "All Risk" policy which provides coverage in one master policy form. The second, a Difference-In-Conditions (DIC) policy is used as a supplement to a Named Perils policy. The DIC provides All Risk coverage for those perils not covered by the Named Perils policy.

The best approach for providing All Risk insurance will depend upon the appetite of the insurance carrier and cost. An insurer willing to provide Named Perils coverage may be unwilling to provide "All Risk" coverage at a reasonable cost, if at all, thus the need for DIC.

Flood Insurance

Flood insurance is available as part of an "All Risk" or DIC insurance policy. It can be expensive, particularly for ports having facilities in known flood zones. Often, insurers faced with this situation will impose high deductibles or decline to provide protection.

It was for this reason that in 1968, the federal government created the National Flood Insurance Program. The program falls under the jurisdiction of the Federal Emergency Management Agency (FEMA) which operates the program through the Federal Insurance Administration. The purpose of the program is to make flood insurance available to all at a reasonable cost.

Originally, the program was a joint effort of private insurers and the Federal Government. Today it is strictly a Federal program with the Federal Government underwriting all policies. Flood insurance policies are available through all licensed agents and brokers. The agents and brokers also process claims made against the policies.

Due to the relatively low limits available through the Federal program, many ports with high valued buildings use a layered program. Primary limits are purchased in the Federal program and excess limits are then purchased from a commercial insurer under an All Risk or DIC policy as excess over the Federal policies.

Builders Risk

Builders Risk insurance was designed to protect a building or structure during the course of construction, including materials and supplies that will be used. Some ports prefer to purchase the coverages to maintain control of pricing and coverage. Other ports prefer to require the contractor to do so. If the contractor is purchasing the policy, it is essential that the port write specific insurance requirements in the contract including requiring the port and all participating contractors and sub-contractors to be Named Insureds on the policy. Either way, a port will need to evaluate the scope of coverage of the policy to ensure that it meets the port's particular coverage requirements.

Builders Risk policies can be written on either a "Named Perils" or "All Risks." However, the "All Risk" is perhaps the more common approach. When considering the appropriate limits, a "Completed Value" Builders Risk policy is usually more desirable than a "Reporting Value" policy. Under a Completed Value policy, the dollar limit of coverage is equivalent to the completed cost of the project. The advantage of the completed value forms is that it eliminates potential under-insured values that can arise in a reporting value form. This occurs either when errors are made in calculating interim insurable values or when a monthly or quarterly report is inadvertently not sent to the insurer.

A Builders Risk policy commonly covers property while in transit and while at locations other than the job site. Also, coverage is provided for collapse during the course of construction resulting from defective materials or methods, boiler explosion, and theft of building materials not attached to the building. A port can obtain or require the contractor to obtain an endorsement to the policy that covers the perils of flood and earthquake, as these perils are normally excluded on a builders risk property form.

Another important endorsement to consider is an endorsement providing coverage for "soft costs" or delayed opening loss exposures. These are additional costs associated with construction of a building, for example, loss of rents, additional architects' and engineers' fees, additional interest on funds borrowed, additional advertising expenses, and additional insurance premiums.

Valuation

In order to guaranteed that insurance protection is neither inadequate nor excessive, an appropriate program of establishing insurable values should be implemented by a port. One way to develop values is to do it internally. Original construction costs adjusted for remodeling and repairs, less non-insurable values such as land, excavation costs, site preparation, etc., can be trended using inflation or deflation factors to trend the base cost to a current value. Trending factors are often available from insurers, brokers, agents, or from independent publishing sources.

Another method is to use the appraisal services of an insurance company or broker. Ports should be aware, however, that these appraisals may not provide the details desired and may be somewhat self-serving for the insurer.

A third method of determining property values is to use an independent professional appraiser capable of rendering impartial and unbiased services. An appraiser's knowledge of court decisions involving obsolescence, fair market value, and depreciation may greatly help in determining the port's equipment values at risk. In addition, formal appraisals are more readily accepted by insurance carriers when granting certain policy provisions such as an Agreed Amount Endorsement and when settling claims after loss. A goal of completing a physical appraisal of all property each ten years, with interim annual valuation adjustment using trend factors, would not be unreasonable. By staggering appraisals for multiple locations over a ten year period, the expense of physical appraisals is often more acceptable to the budgeting process.

Actual Cash Value vs. Replacement Cost

Two methods of valuation are recognized in property insurance. The first method is replacement cost, where the value assigned to the building or contents is the cost to rebuild or replace the property with materials of like kind and quality. The second method is actual cash value, where the value represents replacement cost less an amount which accounts for the technological obsolescence and the physical deterioration of the property. Market value is also a consideration in establishing actual cash value. Actual cash value more nearly represents the value of the property at risk for an organization, although because of inflationary trends, the actual cash value can be in excess of the initial purchase price shown on company accounting records.

Replacement of any structure which is important to operations would require the expenditure of more money than an actual cash value insurance recovery. For this reason, the concept of replacement cost insurance was developed. Replacement cost coverage is one method by which a port can provide funding for this additional loss cost element. Replacement cost coverage should not be used indiscriminately and may not be available for specific properties. Policies written on a replacement cost basis require that the repairs be made or property actually replaced in order to collect full replacement cost. Where property is not repaired or replaced, actual cash value will be paid even though a replacement cost valuation is provided by the policy. For this reason, an actual cash valuation should be used where ports have property which would not be repaired or replaced if damaged.

Coinsurance Clause

To encourage policyholders to insure to full value and simplify property insurance rate making, property policies contain a provision termed a "coinsurance clause." The effect of this clause is to penalize a policyholder who fails to insure to proper value.

Simply stated, the insurance formula operates as follows:

$$\text{Amount of Loss} \times \frac{\text{Limit Purchased}}{\text{Limit Required by Coinsurance Clause}} = \text{Amount of Insurer Loss Payout}$$

The "Limit Required by Coinsurance Clause" in the formula is determined by multiplying the coinsurance percentage stipulated in the policy times the replacement cost or actual cash value depending on which valuation method is used in the policy.

If the ratio of purchased insurance to full value is not equal to the required coinsurance percentage stated in the policy, the port becomes a coinsurer. As an example, assume the following:

Total Insurance Value	$100,000
Amount of Insurance Purchased	$ 67,500
Coinsurance Percentage	90%
Loss Suffered	$ 10,000

Plugging these assumptions into the formula yields the following results:

$$\$10,000 \times \frac{\$67,500}{\$90,000} = \$7,500$$

On this $10,000 loss, the insurer will only pay $7,500 and the port will be a "coinsurer" for the remaining $2,500, in addition to the applicable deductible.

Agreed Amount Endorsement

A special provision can be included in a property policy to offset the possibility of a coinsurance penalty. This provision is known as an Agreed Amount Endorsement and is written affirmation by the insurance company that the values as stated in the policy are sufficient. It suspends the provisions of the coinsurance clause. The Agreed Amount Endorsement is generally granted only when the insurance company is convinced that a good faith effort is being made to establish acceptable values and maintain an adequate level of insurance. Typically, the Agreed Amount Endorsement is granted for a stipulated time period (generally one year) and must then be renewed by the carrier when the insured updates its property values.

Specific and Blanket Limits of Coverage

"Specific" insurance limits is that form of coverage where a stipulated amount of protection applies separately to each building and its contents as scheduled in a policy. In the event of a loss, the amount of recovery is limited to the specific amount scheduled for the property involved.

"Blanket" insurance limits is a form of coverage where all buildings and contents are insured under the policy for one overall amount. The amount or limit is generally arrived at by adding together the individual values of the buildings and contents insured under the policy.

A relatively new approach to limits is sometimes referred to as a "first loss" or layered approach. Under this approach, a maximum limit is established in the policy equivalent to or slightly higher than the highest value for any single location. The single limit applies to each loss regardless of what property is involved. For example, if a port had individual buildings valued at $500,000, $7,000,000, $8,000,000, and $10,000,000, under a first loss policy the limit might be set at $10,000,000 where as under a blanket limit policy the limit would be $25,500,000 ($500,000 + $7,000,000 + $8,000,000 + $10,000,000). Because of the lower limits, first loss policies are sometimes less expensive. They are generally used by firms with buildings of relatively uniform value where there is a geographic distance between locations. This latter point is important since the limit is per loss. If several buildings, because of close geographic proximity are subject to the same loss, sufficient limits for full recovery would not be available under a "first loss" limit approach.

Loss Due to Application of Building Codes

Building codes, electrical codes, or other building ordinances change over time and may be more restrictive then those in effect at the time a particular building was constructed. When a building is damaged by fire or other insured peril, it is possible that extensive portions of the building undamaged by the insured event may have to be demolished, and replaced due to application of the new codes. Insurers are responsible under contract only for the direct damage not the additional expenses caused by the enforcement of the code. Coverage for such additional expenses is available and negotiable. Coverage is available for:

- The value of the undamaged portion of a building which must be demolished because it is not in compliance with the existing building codes.
- The cost to demolish the undamaged portion of a building so affected.

- Coverage for the increased cost of construction of the type required by the stricter code(s).
- The business interruption resulting from the additional time needed to repair or replace the undamaged building portion.

"Demolition Costs" coverage is separately available to cover only the second exposure listed above for property that might not be replaced.

A port would be well advised to stay informed on code changes that can affect older buildings. The costs of demolition or meeting code changes can be substantial and can create unexpected losses to a port.

Valuable Papers and Records

Recoveries under standard fire insurance policies for valuable papers and records are limited to the cost of the media (i.e., paper) in blank form plus the cost of transcribing the records. Fire policies do not insure the cost and expense a port may incur in recreating and reconstructing the information required to enable it to transcribe the data. Insurance protection for this exposure is available through Valuable Papers and Records insurance. Coverage is generally written on an "all risk" basis subject to a deductible. The coverage is relatively expensive and often less cost-effective than a procedure to duplicate valuable papers and records and store them at another location. When off-site storage is not practical, storage in fire proof files in another part of the same building may be an acceptable alternative.

Equipment Floater

Ports generally have a certain amount of equipment not licensed or designed for use on public roads or part of a building or its contents. Items such as forklifts, bulldozers, graders, cranes, street sweepers, tractors, etc., fall into this category of equipment. Coverage against physical loss is provided by an Equipment Floater. While most provide "all risk" coverage, terms can vary between insurers. Smaller values generally are included on a blanket basis. Insurers, however, often require that equipment with significant values, such as mobile cranes, be specifically scheduled. Coverage is often written as a rider to the property insurance policy but can also be written in a separate policy. Because coverage, rates and deductibles vary substantially, a port considering this coverage should seek quotations from several sources.

Property – Time Element

Fire, explosion, or other loss to physical assets of a port can result in two losses. The first would include the cost to repair or replace the damaged property. The second is the "loss of use" of the property. This includes loss of income plus continuing expenses where operations are totally or partially interrupted and costs over and above normal operating expenses where operations must be continued using alternative facilities.

Business Interruption Insurance

Business Interruption insurance policy forms are designed to insure against loss of income and continuing expenses incurred as a result of an interruption of business from direct damage to property. The Business Interruption policy forms most commonly used to insure a port's exposure include a gross earnings form for mercantile and service risks or a combined business interruption and extra expense insurance form.

The geographic spread of facilities and the availability of substitute or alternative operating facilities within a port can affect the need for or amount of business interruption insurance. A port lacking multiple identical facilities which can serve as backup or which is heavily dependent on a continuous stream of revenue for financial stability has a genuine need for business interruption insurance. In addition, bond rating agencies, creditors, or other outside parties, with an interest in a port's ability to meet financial obligations may require the purchase of business interruption insurance. As such, business interruption is a contract of indemnity covering only actual loss of profit and unavoidable continuing expenses otherwise included in normal operating revenues.

Typically, business interruption insurance is provided by endorsement to a Property Insurance policy on either a named peril or an "all risk" basis. It is important to note that for the business interruption insurance to respond, the loss must be caused by an insured property damage peril. Business interruption losses resulting from uninsured property damage perils are not covered. As an example, business interruption under a policy covering only the fire and extended coverage perils would not respond to a business interruption loss resulting from damage to a warehouse caused by building collapse.

Coverage for the perils of flood, earthquake, subsidence, or employee strikes are generally not covered by standard Business Interruption policy forms. Where these exposures are applicable, coverage must be negotiated.

Standard Business Interruption forms normally contain a coinsurance clause. Generally, the port may choose 50, 60, 70, or 80 percent coinsurance. The appropriate percentage will depend on the estimated period of time that operations would be interrupted.

The exposure identification questionnaire contained in this *Guidebook* (see Appendix C) provides a worksheet which will assist in calculating the business interruption loss potential. It should be noted that the calculations are based on anticipated future loss potential. Working from current budgets, therefore, requires a certain amount of estimation to account for inflation, changes in operation, or other factors which might impact future income.

Ordinary payroll expenses may be insured under Business Interruption. Ordinary payroll can be defined as all payroll except for executives, department managers, employees under non-cancelable contracts, and other employees vital to port operations. Ordinary payroll, under business interruption forms may be excluded, insured in full, or in part. Factors affecting the decision of how much payroll to insure would include:

- The length of time the operations may be interrupted.
- The condition of the labor market. In a tight market it may prove difficult to hire needed employees when operations are resumed.
- The skills and experience needed by employees in order to operate the facilities. It may be a greater expense to train new employees than to keep existing employees on the payroll during the period of interruption. Excluding ordinary payroll can result in disputes with the insurer over the classification of payrolls between those "vital to port operation" and ordinary payrolls.
- The cost of reimbursing the State Unemployment Compensation Fund can exceed the cost of insurance by a significant amount.

Extra Expense

Extra Expense insurance is designed to reimburse the policyholder for the additional expenses incurred to continue operations under alternative methods following physical damage to its assets. Due to the nature of port operations, some services would need to be continued following a physical loss. For example, if the port's administrative offices were damaged by fire, it might rent temporary offices in another building until repairs could be completed. If a critical crane were damaged, the port could lease a mobile crane to avoid an interruption of services which could jeopardize revenues and even result in loss clients.

There is generally little relationship between the normal cost of operations and the extra expenses a port may incur in operating under alternative means following a property loss. This makes it extremely difficult to determine the amount and limit of extra expense insurance to maintain. Perhaps the best method for establishing extra expense limits is to develop contingency plans for possible loss scenarios and then estimate the cost which would be incurred in carrying out those plans. Such plans, when not developed under the stress of an emergency, may even reduce the extra expense should a loss occur. When properly developed, the plan can be implemented quickly and efficiently thereby reducing or eliminating costly mistakes and expenses.

Unlike business interruption insurance, extra expense insurance forms do not contain coinsurance provisions. Extra expense forms, however, may contain sub-limits designed to restrict the amount of recovery to a given period of time. Typically, the sub-limits are stated as a percentage of the policy limits. For example, a policy may stipulate recovery is limited to:

- 40 percent of the policy limit if the period of restoration is less than one month;
- 80 percent of the limit if the restoration period is not in excess of two months; and
- 100 percent of the limit if the period of restoration is over two months.

Sub-limits can be adjusted to the particular needs of the individual port. Because of the limitations that the sub-limits may place on a port's recovery, they should be evaluated carefully. Oftentimes, the greatest portion of extra expenses is incurred immediately following a loss.

BOILER & MACHINERY INSURANCE

Boiler and Machinery insurance is designed to provide coverage for losses resulting from the explosion or accidental breakdown of boilers and other covered machinery. Historically, the standard fire insurance policy excluded coverage for direct and indirect exposures arising from the operations of boilers and other machinery except for loss due to fire. For this reason, specialized Boiler and Machinery policy forms were developed.

Boiler and Machinery insurance tends to be a very stable line and not subject to the wide swings in the premium pricing associated with other lines such as general liability insurance. It responds very well to loss control and engineering measures designed to reduce losses.

Coverage Forms

There are numerous modifications available to the basic Boiler and Machinery policy which permit a port great flexibility in designing the coverage to fit its particular needs. The insuring agreement of the standard policy generally states that the policy will insure against losses from an accident to an insured object during the policy period.

Coverage can be written on a scheduled object basis, blanket group object basis, or comprehensive (all objects) basis. On a specifically scheduled basis, individual boilers or items of machinery are scheduled on the policy. Coverage is provided only on those objects scheduled.

On a blanket group basis, coverage is provided for all objects falling within the description or definition of the group contained in the policy. This method eliminates the need to specifically schedule each individual object and provides flexibility to the port by insuring only those objects where coverage is needed.

Under the comprehensive basis, the definition of object includes all non-production boilers and mechanical and electrical machinery which a port may operate or own. Where desired, coverage can be extended to production machinery as well. This method has a decided advantage over the scheduled and blanket object basis in that it eliminates the need to specifically identify or schedule boilers and machinery to the policy. Premiums for this coverage are generally higher because of the diversity of objects insured. However, premiums can be controlled by the use of deductibles. Deductibles, in essence, eliminate claims on smaller objects or loss exposures while still providing the catastrophic coverage required by many ports.

Coverage

There are six coverages offered under standard Boiler and Machinery policies. The following are the coverage options available in a standard policy:

- *Loss to Property of the Insured* – Physical damage coverage for the objects and other real and personal property of the port damaged by the accident to the object.
- *Expediting Expenses* – Covers the cost of making temporary repairs and the cost which a port may incur in speeding up or expediting permanent repairs. Typically, this coverage is limited to $25,000. In the basic policy, however, these limits can be increased. Additional limits may be warranted where a port has vital or unique equipment that must be put back into service by the quickest possible means to avoid delay and financial hardship.

- *Liability for Property of Others* – Provides coverage for property of others in a port's care, custody, and control which may be damaged as a result of an accident.
- *Defense Settlement Supplementary Payments* – Covers the cost of legal defense, court and other associated expenses, interest on judgments, and other costs resulting from claims. This coverage is similar to that found in the liability insurance policy.
- *Automatic Coverage* – Provides automatic coverage for objects which a port may install at any location scheduled in the policy or at newly acquired locations, provided they fall within the class of objects which are already insured. Typically, the port must notify the insurer within ninety days for coverage to continue.
- *Bodily Injury Liability* – Covers bodily injury resulting from an insured accident. It is an optional form of coverage under a Boiler and Machinery policy. Because this duplicates the coverage of a port's general liability insurance policy, it is normally not required.

Method of Valuation

Standard Boiler and Machinery provisions limit recovery to actual cash value (see ACV discussion under Property – Direct Damage, page 6--3). It is possible to amend the actual cash value provision to replacement cost basis. Recovery under repair or replacement is limited to the smaller of:

- The cost to repair the damaged property at the time of the accident.
- The cost to replace the damaged property with property of like kind and quality.

If the property is replaced by property of different kind or better quality, larger size or capacity, the insurer is not liable for the amount in excess of what would have been paid if replacement had been made with like kind. If the object is not replaced or repaired, the insurer is liable only for actual cash value. Unless an object will not be replaced, it is advantageous for a port to insure its boiler and machinery on a replacement cost basis.

Indirect or Time Element Insurance

Boiler and Machinery policies can be extended by endorsement to provide insurance protection for indirect or time element losses (see Property – Time Element, page 6--5) arising from a boiler and machinery loss. Both business interruption and extra expense insurance coverage can be obtained under Boiler and Machinery policies. Because physical damage from boiler and machinery accidents, except caused by fire or lightning are excluded from fire insurance policy forms, time element coverage provided under a fire policy will not respond for boiler and machinery related time element losses. Where significant boiler and machinery time element exposures exist, a port will also need to purchase this coverage under the boiler policy.

Fidelity Insurance

The potential for loss caused by employee dishonesty is most difficult to recognize or adequately evaluate. Often employees who are the most valued and trusted, commit embezzlements or misappropriations, which can occur over a period of time. When the loss is finally discovered, it may often exceed the amount of insurance maintained by the organization.

Although considered insurance, Fidelity coverage is actually a bond. There is an important difference between insurance and bonds. An insurance policy is a two-party contract between the insured and insurer where the insurer promises to reimburse the insured in case of loss. A bond is a three party contract, which guarantees that one party (the surety) will meet an obligation due to a second party called an obligee (the port), as a result of the failure of the principal (port employee) to fulfill his or her obligations. In every surety bond, there is an obligation that the principal will make restitution to the surety for any payments the surety must pay to the obligee.

The coverage for loss caused by employee theft is a fidelity bond in which the surety obligates itself to the port to make good on losses caused by the dishonesty of port employees.

There are a number of different fidelity bond forms. The forms most appropriate to ports, however, are the public employees blanket bond and the public employees blanket position bond.

Public Employees Blanket Bond

This form covers all employees of the port. New employees are automatically covered without notice to the insurance company. The limit of the bond is the insurer's aggregate liability per loss regardless of the number of employees involved. It does not apply separately to each employee causing the loss.

This bond is on a discovery basis so that the entire loss, without regard to period of time over which thefts occurred, is covered unless specifically limited by the insurer.

Public Employees Blanket Position Bond

This policy form provides coverage similar to the blanket bond. The principal difference in forms, however, is that under the blanket position bond, the limit of liability applies per employee rather than per loss. Because the bond limit could be paid for each of a number of employees involved in a loss, the premium rate is generally higher for this bond than for the blanket bond form.

Many knowledgeable bond experts believe that the public employees blanket bond is the preferred form. They argue that most employee dishonesty losses are caused by a single employee and that, for an equivalent premium, a higher limit can be purchased under the public employees blanket bond as compared to the public employees blanket position bond. The most appropriate form for ports, however, will depend on its specific circumstances and perhaps statutory requirements.

Faithful Performance Provisions

Public employees bonds may be written on a "faithful performance" basis. The primary difference between this and the "honesty" form discussed earlier is coverage for loss resulting from the failure of employees to faithfully perform their duties or to account properly for all funds or property received by virtue of their position or employment. The term "faithful performance" is generally based on statute and regulations that define the degree of care imposed on employees. Faithful performance provisions provide broader coverage than normal fidelity bonds since statutes and regulations defining the degree of care imply that employees may be held responsible for losses even though they may have been entirely honest in their own conduct.

Employees Covered / Employees Excluded

Employees are defined in the honesty insurance form as all members of the staff of a port, excluding anyone who is required by statute to be individually bonded for faithful performance. Also excluded from coverage is any treasurer or tax collector, regardless of whether or not the employee has such a title.

Faithful performance forms define employees as all members of the staff while in the employment of a port and not required by law to furnish an individual bond to qualify for office.

Ports should review governing statutes or regulations to determine which of the honesty or faithful performance bond form is required.

Due to the definition of covered employees, coverage under both bond forms end when an employee is terminated. Sometimes, however, a terminated employee is able to appear as still being employed which could permit access to port assets. This exposure to loss would be uninsured under standard bond provisions making it practical to have coverage extended beyond the standard bond provisions. Many insurers will extend coverage to 30, 60, or 90 days following termination of an employee.

From time to time, ports find it necessary to contract with intervening employers, such as Kelly Services, etc., to obtain part-time or additional employees for peak work periods. These employees are often given access to vital records and are in a position to embezzle port funds. Coverage is not provided under the standard provisions of a port fidelity bond for these individuals.

The most appropriate risk management practice is to require proof of insurance from the intervening employer. However, this is not always practical. Often, these employees are hired as needed, on short notice, without the risk manager's knowledge. For this reason, it is practical for the port to extend the definition of employee under its own fidelity coverage to provide protection for employees hired through intervening employers.

Money and Securities Insurance

This insurance provides coverage for theft of money and securities both inside and outside of port premises. Money and securities is defined as currency, coins, bank notes, bullion, travelers and registered checks, money orders and negotiable or non-negotiable instruments, or contracts representing either money or property.

Inside coverage provides protection against losses within the port premises or any banking premises caused by actual destruction, disappearance, or wrongful abstraction of money or securities.

Outside coverage provides protection for the destruction, disappearance, or wrongful abstraction of money and securities outside the premises or while being conveyed by a messenger or armored car company or while within the home of any messenger.

Property, other than money and securities, is covered against robbery while being conveyed and theft, while in the home of a messenger. For other property, recovery is limited to the cost to repair or replace the property with like kind and quality. The policy limit is on a per occurrence basis.

Forgery Insurance

Depositors forgery insurance provides protection against loss from forgery or alteration of outgoing checks or other instruments of the port. Forgery on incoming instruments can also be insured. It is often assumed that the bank is liable for losses caused by forgery or alteration. However, where a port's negligence contributed to the loss, a bank may be able to escape liability. If a port fails to notify its bank of the theft of blank checks, a check writer, or signature stamp, the bank can look to the port for reimbursement. Because of this, defense coverage is included to protect the port against allegations of negligence.

General Liability

General liability insurance protects the port against claims seeking to hold the port responsible for personal injury, bodily injury, or property damage losses to third parties. There are a number of general liability policy forms available, but perhaps the most appropriate for ports is the Commercial General Liability Form. This form provides the broadest coverage of all the various forms.

Commercial General Liability Form

The commercial general liability policy form provides the following basic coverages:

- *Premises and Operations* – Covers liability arising from the ownership, maintenance, and use of premises owned or occupied by the port and operations on or away from the premises unless excluded by the other provisions of the policy.
- *Contractual Liability* – The basic form provides limited coverage for contractually assumed liability. Cover is limited to agreements for the lease of premises, easements, sidetrack agreements with railroads, elevator maintenance, agreements required by municipalities except those involving performance of municipal work, and the part of any contract pertaining to business under which the port assumes the tort liability of another to pay for bodily injury or property damage to a third person or organization.
- *Independent Contractors* – Covers the liability of the port arising from operations performed on its behalf by independent contractors.
- *Products and Completed Operations* – Covers bodily injury or property damage arising from products sold, handled, or distributed

by the port or from its performance of faulty work once the work has been completed.

- *Personal and Advertising Injury* – Personal injury typically includes the perils of libel, slander, malicious prosecution, loss of reputation, humiliation and false arrest, imprisonment or restraint. Advertising injury means injury arising out of oral or written publication of material which slanders or libels a person or organization or disparages their goods, products, or services which infringes upon copyright, title, or slogan.

The standard commercial general liability form, while providing broad scope of coverage, is not "all encompassing." The standard form is designed to provide coverage for those exposures common to all commercial concerns. For this reason, it must be tailored to meet the particular needs of the ports where non-standard exposures exist.

Extensions and Modifications to Coverage

Incidental Medical Malpractice

Courts have given professional status to individuals and employees for medical malpractice losses arising out of rendering first aid treatment. Although not specifically excluded, court precedence has been set where incidental medical malpractice is not covered by standard liability policies. Coverage under the commercial general liability policy can be obtained, however, by the addition of an Incidental Malpractice Endorsement.

Defense of Persons or Property

The definition of "occurrence" in the standard policy requires that property damage must be neither expected nor intended from the standpoint of the insured. This definition eliminates coverage for those instances where the port may perform any intentional act which results in property damage. An example might be where port employees damage property of others in order to prevent the spread of a fire.

Many insurers will amend their definition of occurrence to include coverage for the use of reasonable force which results in property damage if caused for the purpose of protecting persons or property. This is a valuable extension of coverage for ports and generally worth obtaining.

Employee vs. Employee Claim Exclusion

Employees are "insureds" under the standard commercial general liability policy but only "for acts within the scope of their employment by you or while performing duties related to the conduct of your business. However none of these 'employees' is insured for bodily injury or personal injury to a co-employee while that co-employee is either in the course of his or her employment or performing duties related to the conduct of your business...." This is sometimes referred to as the "fellow employee" or "employee vs. employee" exclusion which can be removed by endorsement.

Non-owned Watercraft

Ports may periodically charter or hire boats or other craft in the pursuit of port business. An example of this can occur when the injured party could institute a claim against the port alleging that at the time of the accident, the boat was being used in connection with port business. The watercraft owner's insurance provides primary coverage but may not extend protection to the port or be inadequate to fully cover a judgment.

Automatic coverage for non-owned watercraft is restricted to watercraft under 26 feet. If a port is a frequent user of non-owned watercraft or charters larger watercraft, it should insure this exposure with a separate specialized policy.

Owner Controlled Insurance Program (OCIP)

An Owner Controlled Insurance Program (OCIP or Wrap Up) is an arrangement where the owner of a construction project buys insurance coverage for general liability, workers' compensation, and course of construction risks for all project participants.

There are two considerations before selecting an (OCIP) as the project insurance. Does your State permit (OCIP) programs and is the project large enough to generate the economies of scale desired.

Reasons for an OCIP

All major construction projects ($100,000,000 and up) should avail themselves of these programs whenever possible. The benefits to all and especially the Owner are many, in addition to the considerable savings in insurance costs. Briefly the owner benefits as follows:

- The project owner has control. In the absence of an OCIP, the owner has no chance to review the insurance coverages of each contractor coming on the job let alone continuing to monitor them after receiving initial certificates, etc.
- The owner enjoys enormous economies of scale and invariably has broader coverage. Individual insurance programs for many contractors are invariably inadequate.
- An OCIP affords higher limits of liability. Limits of insurance carried by most contractors are inadequate and requirements are usually higher than individual contractors can obtain or afford on a "one job" basis. Aggregate limits shown on certificates of insurance may be eroded by other claims already submitted.
- Subrogation waivers and hold harmless agreements are more easily obtained where there is a single insurer.
- Situations frequently arise wherein two or more contractors are involved in a single loss occurrence. With one insurer, there are no problems - with several insurers, usually everyone suffers.
- In an OCIP, contractors individually have the privilege of insuring deductibles or other coverage limitations that might exist in the general program, particularly where it is obvious they cannot absorb the risk.
- An OCIP eliminates conflict of interest.
- An OCIP achieves fully controlled centralized claim handling by a single carrier.
- Centralized coordinated Safety Program produces both direct and indirect savings.
- With an OCIP, the owner is protected from "safe place to work" and "fellow employee" suits because there is but one carrier for both the Liability and Workers' Compensation coverages.
- Where dividends are earned, the owner receives them, thus further reducing costs.
- Overall, the OCIP affords vastly eased administration. This, in turn, provides energy conservation, reduces problems, and enables project managers to concentrate on building.
- An OCIP broadens the number of contractors eligible to compete, especially minority contractors and subcontractors who otherwise may be unable to obtain required limits and the broader coverages demanded.

Figure 12 shows the differences in a program of individually insured contractors vs. an OCIP.

Figure 12
Comparison Between OCIP and Individual Program

Individual Program	OCIP Program
Each Contractor Procures his own insurance	The Owner/GC purchases insurance for all
Additional Insureds Endorsement required for Owner/Builder on each contractor's policy	No Endorsement required - protection exists for all
Duplicate Coverage	Overlap is eliminated by homogeneity by Broad Coverage purchased
All Risk Builders Risk unless otherwise self-insured	All Risk Builders Risk: which can include transit exposures is purchased by owner for all parties assuring uniformity of coverage and proper limits
Auto Liability	Not included
Equipment Floater	Not included
Professional Liability is secured by each contractor with an exposure at varying limits and aggregate impairments	Owner/GC purchases for all. Limits per claim and aggregate apply to the project only. Bids reduced by contractor's cost of insurance

How an OCIP Works

1. Programs on major construction projects normally include the following coverages:

   a) Workers' Compensation, including Employer's Liability

   b) Commercial General Liability (excluding Automobile) covering operations originated at or from the job site.

   c) All Risk Builder's Risk

   The Commercial General Liability policy and Workers' Compensation policies are usually negotiated with underwriters on a "cost plus" basis whereas the All Risk Builder's Risk would be negotiated on a rate per $100 of final construction costs.

   Unless state laws permit otherwise, Workers' Compensation rates and modifications of each contractor or sub would apply and separate policies are issued for each.

   Under the OCIP's Commercial General Liability policy the Owner, All Contractors and all Subs (excluding suppliers and those subs whose payrolls do not exceed $10,000) are covered under one very broad program and individual policies are written for all parties. However, only one insuring company is involved. Some states that do not permit Wrap-ups will permit Owner Controlled Programs. The insurance regulations of the State of the project prevail.

2. The following coverages are normally *excluded* in each of these programs:

   a) Automobile Liability and Physical Damage – this is due to the fact there is no way that a contractor can assign specific vehicles to any one job.

   b) Contractor's Equipment Coverage – this is due to the same condition as autos. Contractors will assign their equipment as needed to various jobs. Normally included in this category is the exclusion of any tools, equipment, scaffolding staging, personal property of subcontractor or lower-tier subs, structures erected to house workmen, field offices, and/or materials; the capital value of which is not included in the work.

   c) Professional Liability for any architects, engineers, doctors, nurses, or other persons who would need such coverage. These parties are normally included for their job site general liability exposure only. OCIP coverage for the professional liability of architects and engineers is available as a separate program.

   d) Transit Coverage could, if desired, be included within the All Risk Builder's Risk.

3. The Owner pays the premiums and will be the recipient of any dividends.

4. The Commercial General Liability policy can be written to include or exclude Products and Completed Operations Liability. Normally they are included. When excluded, each contractor or sub would have to negotiate with their carriers for this coverage which could be quite costly since the underwriter is not benefiting from the other wrap-up premium generated. It is strongly recommended that these coverages be included in the OCIP CGL along with an extension of at least two years on the Completed Operations.

5. Carriers – Insurance Companies

   Several American insurance companies currently participate in OCIP programs and those that are writing them vary greatly in their approach.

   The plans generally used are as follows:

   a) *Guaranteed Cost* – Generally all companies that use this approach adjust their liability rates annually. However, any such adjustment would reflect a much lower rate than individual contractors could achieve by themselves using different carriers.

   b) *Retrospective (Retro) Plans* – Usually, under these plans the maximum would be 125 percent; the minimum, 40–50 percent; a basic of approximately 20 percent, and a Loss Limit varying between $250,000 and $1,000,000. Some carriers prefer no Comprehensive Loss Limit. The loss limits used will determine the excess premiums charged.

c) *Retention Plan* – This is similar to an "all down" retrospective plan (see (b) above) except that premium discounts are permitted while they are not permitted under Retro programs. The standard is the maximum, and the minimum is approximately 50 percent. Again, the loss limit will determine the excess premium charged.

Carriers also vary in their choice(s) of payment plans. The objective is to set up the best cash flow arrangements possible for the owner.

Of paramount importance in these programs is the effort expended by the carriers in the areas of loss control and claims. Generally, one claim person, at a minimum, is assigned to the project, usually on a full time basis. The Insurance Company Loss Control specialists work closely with the Owners, Project Manager, and the Broker's Loss Control personnel to establish and monitor a program that is thoroughly communicated to all and consistently enforced.

AUTOMOBILE LIABILITY AND PHYSICAL DAMAGE INSURANCE

Ports typically own a number of private passenger automobiles, vans, and trucks licensed for highway use. In addition, ports may lease, hire, or permit employees to use personal vehicles in the pursuit of port related business. The use of automobiles creates an exposure to loss in the areas of bodily injury and property damage to third parties, injuries to third party passengers in port vehicles, and physical damage losses to the port's vehicles.

Due to statutory requirements, the potential catastrophic nature of liability losses and the need for experienced personnel to adjust third party claims, insurance is the most commonly used risk financing method for port vehicle liability exposures. For larger ports or those with a significant fleet, the most cost-effective means for financing physical damage to a port's vehicles is often self-insurance.

Coverage

The Business Auto (BAP) is the mostly commonly used policy for insuring automobile exposures. The BAP offers a simplified approach to designing insurance coverage. On the declaration page, (see Exhibit G, page B--7) the various coverages available under the form are scheduled. For each scheduled coverage, space is provided to insert a number. The number to be inserted can be selected from a table in the policy which defines the automobiles to be insured (Exhibit G). For example, a number "1" inserted in the space next to liability coverage would mean all automobiles are covered for bodily injury and property damage liability to another party.

Physical damage coverage may provide either comprehensive or specified perils coverages and collision. Comprehensive is an all-risk type coverage. However, specified perils cover only specific occurrences such as fire and theft. Collision covers hitting another object or overturning. Physical damage coverage is typically subject to a deductible. Ports interested in insuring physical damage exposures should obtain quotations at several deductible levels in order to determine the most cost-effective deductible.

Physical damage losses to individual vehicles are generally within the self-insurance capacity of most ports. Over the long run, substantial savings can be realized by assuming these losses. Of course, feasibility and cost-effectiveness of self-insuring depends on many factors including the size of the port, the individual value of the vehicles, the size of the port's fleet, and the effectiveness of its loss control programs.

Ports which choose to self-insure physical damage exposure to vehicles should recognize one exposure which may be beyond the ability of the port to comfortably retain. The exposure is created when many of the port's vehicles are parked together. A fire, explosion, or similar peril could destroy a large number of vehicles in a single accident. One method for a port to obtain protection for this loss potential is to insure its automobiles for physical damage under the property insurance policy covering the port's buildings. Some insurers will extend coverage to vehicles parked within a specified distance of an insured building.

A second cost-effective method for obtaining this coverage might be to insure the vehicles for comprehensive coverage under conventional automobile policy, establishing a "per loss" limit adequate to cover the combined values of all vehicles at risk with a "per loss" deductible at a level in excess of the value of a single automobile.

Medical Payments Coverage

Medical payments coverage pays for any necessary, medical, surgical, and dental expenses incurred by a passenger in a vehicle operated by or with permission of the named insured port. Benefits are paid without regard to legal liability.

Since the port's liability protection will respond for claims where the port is legally liable, medical payments coverage can be viewed principally as a public relations form of insurance. Where a port feels an obligation for these claims, it is generally more cost-effective to treat them as a cost of doing business by paying them out of current operating funds rather than by purchasing insurance. It should be remembered that injuries to employee passengers while working are covered by workers' compensation. Therefore, medical payments coverage is not needed for this exposure.

Contractual Liability

Liability that a port may assume under a contract is covered under the standard automobile insurance policy. Such a liability exposure can arise for a port in the hire or rental of vehicles belonging to others.

Fellow Employee Exclusion

Anyone using a vehicle with the port's permission is protected against liability claims of third parties. Coverage, however, is excluded for any employee where the claim is made by a fellow employee and results from an accident involving a vehicle being operated in the course of the employee's work. This exclusion eliminates potential employee collusion in making claims. However, it also bars coverage for deserving claims. As a result, some employers have eliminated this policy exclusion. Others have kept the exclusion but developed contract language to the effect that the insurer will waive this condition when requested by the insured. This has the effect of allowing the exclusion to be waived for deserving claims yet used as a bar of coverage where employee collusion is suspected. The appropriate treatment of this exclusion depends upon the philosophy of the individual port.

Employee Use of Vehicles

The business automobile policy can provide coverage for the port when employees use their own personal automobiles for business of the port. The port's policy, however, will not provide protection for the employee when a personal automobile is used. This should not be confused with the coverage that is extended to employees while driving port-owned vehicles.

Many employees believe that the non-ownership liability insurance purchased by a port also insures them while using their personal vehicles in pursuit of port business. When an accident occurs, often the employee will turn to the port for insurance protection only to find that there is no coverage. To eliminate potential employee relations problems, it is often advantageous to inform all employees who may use their personal vehicles on port business of this fact, and that it is their responsibility to arrange their own personal insurance protection. Generally, this does not place an undue hardship on employees since most ports provide mileage allowances, a portion of which is designed to cover the cost of insurance. (Note: Coverage can be extended under the port's policy for an employee using his/her personal auto on port business. However, coverage is always excess of the employee's personal insurance and is never primary.)

It should also be noted that this is not coverage for the personal automobile of an employee who is provided a port vehicle for his regular use. He has coverage while operating the port vehicle, but not for another vehicle he may use or borrow. Any employees who are provided a vehicle for the regular use should be aware of this situation.

Public Officials Liability

A port and its appointed or elected officials and officers face legal liability exposures arising out of executive and management decisions. This is distinct from other forms of liability which generally involve accidental bodily injury or property damage. The port and its officials are exposed to threat of legal action for every decision they make, much the same as corporations and their boards of directors. Directors and officers liability protection is the insurance remedy for private corporations whereas public officials liability is generally used by public entities. Both insurance coverages provide protection for wrongful acts arising out of executive and management decisions. Coverage for all employees is normally included.

Claims can arise from a number of acts, errors, or omissions. Citizens file claims for poor quality of services; for failure to provide services; zoning and rezoning; annexation/detachment and property condemnation. Employees have filed claims for dismissal/nonhire, failure to promote, disciplinary action, and unfair labor negotiations.

Ports may have professional engineers, attorneys, and other professionals on staff whose professional acts may be added to the coverage under the Public Officials Liability policy, or coverage can be arranged under a separate Professional Liability policy to avoid shared limits situations. The policy annual aggregate limit applies to all coverages on a shared basis.

Policy Forms

A port's risk management program should include public officials liability coverage to protect its public officials. Presently, no standard liability forms have been developed for this loss exposure. The risk manager should carefully review the insuring requirements and exclusions of the various public officials policies in selecting a policy most appropriate for the port. All wrongful acts committed by public officials, whether actual or alleged, should be covered including errors, acts, omissions, breach of duties including misfeasance, nonfeasance, or violation of federal or state civil rights laws. The insurance policy should include, in addition to the port, all individuals who were, now, or shall be elected or appointed to commissions, councils, or other units under the jurisdiction of the port. Both paid and non-paid individuals should be included, in addition to all employees.

Insurance policies are written on a claims-made basis. Insurance protection is determined by the date of the claim for claims-made policies subject to a retroactive date which limits claims to events happening after that date.

Employment Practices Liability

In addition to Public Officials liability, a risk management program should include coverage for Employment Practices liability. It is a line of insurance for one of the fastest growing litigation threats to employers. Employment Practices liability (EPL) extends coverage for the perils of sexual harassment, wrongful termination, discrimination, failure to promote, breach of employment contract, and similar actions. EPL insurance is a product that was created in the late 1980s as a result of expanded civil rights laws, including federal employment acts such as American with Disabilities Act (ADA), Civil Rights Act (CRA), Age Discrimination in Employment Act (ADEA), Equal Pay Act (EPA), Family, Medical Leave Act (FMLA), etc.

EPL cases typically involve charges of economic damages as well as emotional distress, humiliation, damage to reputation, mental anguish, etc. A Commercial General Liability (CGL) policy is not intended nor designed to pay claims for these EPL type exposures. CGL policies typically have a broad exclusionary endorsement for employment practices claims. Risk managers should review their CGL and Public Officials Liability policies and are encouraged to obtain their insurer's position regarding these types of claims. Many Public Officials Liability policies are silent as respects to EPL perils or will have specific exclusions that can be deleted. A port's Human Resource Department should be kept up to date concerning labor laws, and employee handbooks should contain port policies regarding employment related issues, i.e., anti-discriminations policy, sexual harassment policy, substance abuse policy, etc. Good employment practices will help reduce potential losses.

Given various limitations and exclusions in other liability policies, a stand-alone EPL policy should be considered. EPL is a relatively new line of insurance, and coverages offered by insurers vary with some providing broader coverages than others. Some advantages of having a stand-alone EPL policy include an independent limit of liability (does not need to be shared) and a broad definition of covered wrongful acts. Most insurers will cover administrative, civil, criminal, arbitration, and Equal Employment Opportunity Commission (EEOC) proceedings. Careful consideration should be given to definitions, terms, conditions and exclusions, who is an insured, is the entity covered, what are the claim triggers, what are the specified perils, defense costs, deductibles and exclusions. Punitive damages are normally excluded but can be included usually at an additional premium. It is highly recommended that punitive damages be included.

Loss prevention practices, including well-written policies and procedures, are the best means of both controlling and defending these claims.

Police Professional Liability

Those ports that operate their own police department or harbor patrols to enforce applicable laws and regulations on port facilities are exposed to a loss exposure that may not be adequately covered or maybe excluded in general liability policies. The loss exposure is greatest for ports that operate detention facilities and that have employees with full arrest authority. Of course, a police professional liability exposure does not exist for those ports which do not operate a police department.

Policy Forms

A police professional liability policy should optimally cover all liability arising out of law enforcement activities including bodily injury, property damage, false arrest-detention, malicious prosecution, libel-slander, wrongful entry/eviction, assault-battery, Section 1983 violation of civil rights under color of law, other discrimination, inmates property loss, inmate vs. inmate fights, and intra-employee claims. Coverage for police professional liability is written on either a claims-made or occurrence basis.

Umbrella Liability

One of the most important policies carried by any port is its umbrella liability policy. This policy provides protection for catastrophic liability loss exposures. An umbrella liability policy serves as a blanket over many primary liability policies. It may provide excess insurance protection for general liability, terminal operators liability, auto liability, public officials liability, police professional liability, and employer's liability coverages. An umbrella liability policy may also go a step further and provide broader insurance protection than is provided by the primary policies. This is accomplished through broad insuring language.

There are no standard industry forms. This necessitates an evaluation of every umbrella contract. The policies may exclude employee injuries, failure to perform a contract, nuclear damages, long-term pollution, asbestos, employee benefit plan fiduciary liability, war, and responsibility for property of others in your custody.

Umbrella liability policies may be confused with pure excess liability policies which provide protection over a specific liability policy. As mentioned previously, an umbrella liability policy may provide broader protection than the primary coverages. Where an umbrella liability policy provides broader protection than the primary coverages, an insurer will require that a port assume the first portion of any loss. Usually the lowest minimum retention is $10,000.

Extension and Modifications to Coverage

Conversely, umbrella liability policies may not be as broad as the port's primary liability policies because of differences of policy language between the umbrella and underlying liability policies. To assure that the umbrella provides coverage at least as broad as that of the underlying policies, following form (policy language) or as-broad-as primary endorsements (add-ons) have been developed for umbrella policies. Representative language may be similar to:

> "As respects the underlying insurance identified herein, this insurance shall apply to any loss for which the underlying insurance

has been maintained. Where no underlying insurance exists or where terms, conditions, and limitations of the umbrella are broader than the underlying insurance, the umbrella will apply based on its terms, conditions, and limitations."

An umbrella liability policy will include a schedule of all underlying insurance policies. A port's risk manager should make sure that the information included in the schedule is correct and that all applicable liability policies are listed. It is also important that the primary insurance policies have the same anniversary date as the umbrella liability policy. When different anniversary dates exist between the underlying policies and the umbrella policy, a gap in protection can arise. This can occur when the aggregate liability limit of a primary policy is exhausted and some of the losses making up the aggregate do not fall within the policy of the umbrella because the primary and umbrella policies have different anniversary dates. The umbrella insurer could refuse protection since the primary policy has not exhausted the aggregate liability limits within the policy term of the umbrella. To avoid this potential conflict, anniversary dates of all policies should be made concurrent. If it is not possible to have the anniversary dates of all the policies the same, the umbrella policies should include a non-concurrent endorsement.

The cost of attorney's fees and other costs associated with a liability claim can be substantial. Consequently, a port should make sure that adequate defense coverage is provided within its umbrella policy. First dollar defense coverage should be provided where there is no underlying insurance and excess defense coverage should be provided on claims involving both primary and umbrella coverages.

The umbrella policy should include the provision that, in the event of exhaustion of the primary aggregate limits, the umbrella will drop down to apply as primary insurance.

Marine Insurance

While the principals of marine insurance are the same as those of the more familiar property and casualty insurance coverages, customary practices, terminology, and policy forms differ substantially. The objective of this discussion, therefore, is to introduce the reader to some of the terminology and more important coverage points.

It is customary that insurance for a port is provided under Marine forms tailored to merge land exposures and marine exposures.

Coverage Forms

Over the years, insurers have developed a number of policy forms and amendatory provisions to cover the particular needs of an insured or group of insureds. These policies are based on original Lloyds General Forms. The provisions of these forms could be made to apply to either ship or cargo by the addition of specific terms or provisions. Coverages for port operations were added to create a package of coverages for the exposures of a port commonly referred to as Ports Liability or Terminal Operators Liability.

The coverages, most common to a Port Package, which can be purchased singly or in combination, include:

Commercial General Liability

Covers "on-land" operations and exposures not including watercraft.

Protection and Indemnity

Covers the operation of watercraft by a port. Coverage includes: 1) bodily injury liability including passengers, visitors, stevedores, or others on vessels in addition to third parties; 2) property damage liability including the cost of raising, destroying, or removing a wreck if deemed to be a hazard of navigation; 3) negligent damage to cargo; and 4) fines or penalties for violation of the law. Additionally, coverage can be extended to cover liability for transportation, wages, and maintenance and cure for injured masters and members of a ship's crew.

Wharfingers Liability

Covers a port's obligation to provide safe berthage for a vessel moored at port-provided docks, wharves, or piers. This obligation includes safe approach and departure. Certain liabilities can be contractually transferred to others such as a tug boat operator, tie-down contractor, pilot contractor, stevedoring company, and even a vessel owner. However, the ultimate responsibility is the port's necessitating insurance protection.

Stevedores Liability

Covers a port's liability arising out of loading or unloading a vessel and moving goods.

A landlord port will have, at worst, a vicarious liability as the owner of the port facilities. Defense coverage is the most important aspect of coverage in this situation.

An operating port may or may not provide stevedore services directly. Stevedores may be employees of a port or hired under contract with a stevedoring company.

In either case, liability for losses caused by "unseaworthiness" of a vessel should be contractually imposed on the vessel owner and not accepted by a port. For stevedore subcontractors liability should be contractually transferred to the subcontractor via hold harmless wording.

Warehouseman's Legal Liability

Covers the legal liability of a warehouseman (bailee) for lost or damage to property in its care, custody, or control. A port that stores goods for customers has the legal status of a bailee for hire. A port can be held liable for the disappearance or destruction of goods in its custody if it can be proven that the port was negligent.

The warehouseman's legal liability policy provides protection if the port is held legally liable for lost or damaged goods. This policy provides broad protection for goods stored in specified port locations. Coverage applies to the property of port customers only for the account of the bailor (port). Thus, port property is *not* covered and liability must be proved before an insurer will make a claim payment. Defense is included in the policy coverage.

When evaluating a port's loss exposures in terms of the warehouseman's legal liability, an insurance underwriter will look for favorable loss experience, qualified personnel, good facilities and equipment, and reputable clientele. Insurance coverage is usually written subject to a deductible to eliminate high frequency/low severity claims.

Pilots Liability

Covers loss exposures to a port that provides pilots to vessels entering and leaving the port. Coverage includes Bodily Injury and Property Damage liability including damage to the vessel.

The basic policy form excludes "Loss of Use" of the vessel while undergoing repairs. Coverage can be extended to do so and it is strongly recommended that the coverage extension be added.

Towers Liability or "Tugboat" Insurance

Covers loss caused by negligence from the operation of a tugboat that causes damage to a vessel under "tow." Coverage is normally added to the insurance on the vessel rather than to the Terminal Operators policy. However, this should be included as a part of the "package" of coverages for a port.

Hull Insurance

Covers loss from physical damage to a vessel owned by a port.

Over the years, as vessels became more sophisticated and specialized, the definition of "hull" expanded to include propulsion systems, boilers, machinery, refrigeration systems, and other mechanical equipment on board. Coverage can be extended to include provisions and stores used in the operation of the vessel. Coverage for cargo and personal effects of crew or passengers is not included.

Coverage is "All Risk" including collision with another vessel and can cover either hull or machinery or both combined. Blanket combined coverage is recommended.

The limit of insurance is normally on a valued basis with a stated amount in the event of a total loss. Replacement Cost is available for newer vessels.

Hull policies are always written on a deductible basis subject to either a flat dollar amount or "franchise" percentage. Under a franchise deductible the vessel owner is responsible for 100% of losses less than the franchise amount. Losses exceeding the franchise amount are paid by the insurer as if no deductible applies.

Three (3) policy forms are available:

1) "Construction Risks," which is similar to Builders Risk insurance but which includes loss during launch and sea trial.

2) "Port Risks," which includes operations only while within the navigation limits of the port.

3) "Navigation Risks," for operations within the agreed navigation limit, e.g., "within the Port and Gulf of Mexico and Ports therein."

Railroad Liability

Covers the operations of port owned railroad facilities. Exposure in this area of operations will vary substantially from port to port. Some ports have no railroad operations, others may have a switching, loading/unloading operation, and still others may operate a short line railroad.

In any event, railroad operations present an added exposure to loss anywhere from crossing safety requirements to damage to railroad cars and cargo. Also, if considered operating "in furtherance of interstate commerce" employees may be subject to the Federal Employers' Liability Act (FELA).

Coverage for FELA is not included in a standard workers' compensation policy and must be specifically added.

Benefits available under FELA are potentially very generous. They can include lost wages, medical expenses, estimated future earnings, and pain and suffering. Awards are determined in the tort system and based on comparative negligence. Because these tort-based recoveries are usually larger than the no-fault workers' compensation benefits, the FELA premium rates are substantially higher than workers' compensation rates.

The effect of a port tariff, statutes exempting port employees, or court rulings should be considered in determining the need for FELA coverage for railroad employees.

Environmental Liability

Background – For the last 30 years, the insurance industry has been attempting to find a solution to covering or not covering liability for losses caused by pollution and contamination events.

Adverse court decisions under general liability and umbrella liability policies resulted in the first steps to limit coverage for events deemed uninsurable under standard rate structures, if at all. The so-called "D," "E," "Z" exclusions were introduced to eliminate liability for the oil industry perils of explosion, blowout, and cratering of wells.

Continued court decisions held that, in the absence of an exclusion, each policy in force during a period of gradual pollution covered the ultimate loss on a pro-rata basis. This led to the introduction of a Gradual Pollution Exclusion in 1973.

The interpretation of this exclusion varied widely from federal to state courts and even between state jurisdictions. In some, the exclusion was upheld, in others discovery was held to be the occurrence and thus covered.

An inevitable result of the chaos within the courts was the development of an Absolute Pollution Exclusion in the mid-1980s. At the same time, exclusionary wording for asbestos and lead paint exposures was added because neither was defined as a pollutant or contaminant by the Environmental Protection Agency (EPA).

Current Status – Increased scientific knowledge of exposures, risk, and insurance needs has led to the emergence of specialized underwriters and insurance coverages to meet virtually every need in the area of pollution risks.

Also, the EPA's 1995 Brownfields Action Agenda created a partnership relationship between the responsible government agencies and property owners, operators, sellers, buyers, and communities replacing the old adversarial means of doing business.

Stated simply "Brownfields" is an attempt to apply uniform standards to contaminated sites for the purpose of encouraging clean-up and redevelopment. Instead of remediation to original conditions, "Brownfields" allows a standard of intended use that can dramatically reduce clean-up costs and liability exposures.

A menu of the products and services available through one or more insurers would include:

- Contractors Pollution Liability
- Consulting, Engineering and Design Professional Liability
- Fixed site clean up costs and third party liability (can include Business Interruption, Loss of Rents, or Rental Value for owner)
- Storage Tank Liability
- Restoration Cost Stop Loss (Per Project)
    a) Excess of Retention
    b) First dollars utilizing funded captive reinsurance

    Note: Investment income and unused funds belong to the insured party under b) above
- Analytical Laboratories Errors & Omissions
- Transporter Pollution Legal Liability
- Waste Treatment Pollution Legal Liability
- Property Transfer Liability, Clean Up, Business Interruption, and Extra Expense
- Brownfields Restoration/Development Liability, Clean-Up Costs including Stop Loss, Business Interruption
- Creditor Reimbursement including Collateral Value Loss Reimbursement
- Pollution Event Crisis Management
- Crisis Management Procedures Audit
- Crisis Management Response Simulation and Assessment

Additional coverages and services are available on a tailored basis to meet specific needs or unique situations. The above list is only a sampler. Increased competition, exposure knowledge and experience have made the current environmental risk marketplace quite responsive to buyers' needs.

WORKERS' COMPENSATION

The objective of workers' compensation statutes is to assure the payment of medical expenses and prescribed wage replacement for employees injured in work related accidents. The laws of governing jurisdictions vary considerably in content and scope, however, all center around the concept of statutory medical and wage replacement (compensation) to injured employees regardless of fault.

Workers' compensation statutes, in addition to establishing the benefit levels for injured employees, are designed to ensure that employers are financially able to meet workers' compensation obligations. Generally, this is accomplished through requirements that employers either purchase insurance from a commercial carrier or qualify with the governing jurisdiction as a self-insurer. In Nevada, North Dakota, Ohio, Washington, West Virginia, Wyoming, Puerto Rico, and the Virgin Islands, monopolistic or state administered funds have been established. In these jurisdictions, if an employer is not permitted or cannot qualify as a self-insurer, it must purchase insurance from the monopolistic fund since commercial insurance is not permitted.

Policy Form and Coverage

The basic workers' compensation policy consists of two parts:

Coverage A – Workers' Compensation: Under this part, the insurer agrees to pay all benefits or obligations falling within the workers' compensation statutes of specified state jurisdictions. This coverage is probably the only insurance contract which does not contain a maximum limit of liability.

Coverage B – Employers' Liability: Under this coverage part, insurance is provided for the claim of employees that do not fall under the workers' compensation statute. Coverage is limited to those states which are designated in the policy. This section contains specific limits of liability. The standard limits are:

Bodily Injury by Accident – Limit/Accident – $100,000
Bodily Injury by Disease – Policy Limit – $500,000
Bodily Injury by Disease – Limit/Employee - $100,000

However, higher limits are available. Umbrella policies will provide coverage in excess of primary employers' liability limits.

Coverage C – Other States Insurance – The policy is issued listing one or more states, under item 3A of the Declarations Page, in which employees of the port are working. The part of the policy, item 3C, enables the port to have automatic insurance coverage for new operations in the states listed in this section. Suggested wording for item 3C to assure most comprehensive coverage: "States of the United States except those listed in Item 3A above and in ND, NV, OH, WA, WV, WY." Note your responsibility to advise the insurer at once if you begin work in any state listed in item 3C.

In addition, the basic policy provides for the insurer to undertake the legal defense of any suits, even if fraudulent or groundless, and to pay all expenses in connection with defense of a claim.

Extensions of Coverage

Voluntary Compensation Endorsement

In certain jurisdictions, not all classes of employees fall within the Workers' Compensation Act. Also, certain states do not require employers to carry coverage where only a few employees exist. Constantly changing compensation statutes make it difficult to stay completely up-to-date on potential loss exposures not covered under the law. It is possible to provide coverage for this exposure by attaching a Voluntary Compensation Endorsement to the policy. Coverage can be extended to either a particular class of employees by designating the class or to all employees of the port.

Since an injured employee not covered by the compensation act may have no recourse other than to sue his employer, the voluntary compensation endorsement can be advantageous by avoiding litigation.

The policy excludes coverage for the monopolistic states of ND, NV, OH, WA, WV, and WY. In those states, if the employment is such as to be subject to the compensation act, coverage must be purchased from the state fund. Coverage from the state fund, however, normally do not provide employers' liability coverage. Since the employers' liability coverage of the standard policy only extends to states designated in the contract, a potential uninsured exposure exists. This is not a serious area of concern for most ports since the exposure may be eliminated by extending the employers' liability coverage of the policy to cover all states including monopolistic states; or, if the insurer is unwilling to grant this extension, "stop-gap" coverage can be secured under the general liability policy.

In Rem Endorsement

In non-marine losses, any action taken by an injured employee or third party would be filed against the person or organization causing the injury. In marine liability, however, a master or member of the crew can bring a claim against the vessel from which the loss occurred as if it was an entity unto itself.

If an action is filed against the vessel, it can be seized regardless of registry or ownership until the claim is resolved. Due to court backlogs, resolution of a claim may take considerable time during which the vessel could sit idle. To prevent the vessel from being seized and possibly idled for a considerable period of time, a port can endorse its workers' compensation policy with an "In Rem" Endorsement. This endorsement provides that such an action would be covered as if against the port and not against the vessel.

Workers' Compensation Acts

In addition to workers' compensation obligations imposed by state statutes, ports may be subject to workers' compensation obligations created by Federal statute. Specifically, ports may be subject to workers' compensation claims under the U.S. Longshore and Harbor Workers' Compensation Act (USL&H), the Jones Act, or the Federal Employers Liability Act.

U.S. Longshore and Harbor Workers' Compensation Act

This federal act provides statutory benefits for employees engaged in maritime employment including longshoremen, harbor workers, ship repairers, and boat builders from injuries occurring on the navigable waters of the United States including adjoining piers, wharfs, dry docks, terminals, marine railways or other adjoining areas customarily used by an employer in unloading, repairing or building a vessel. On average, benefits payable under this Act are substantially higher than those under state compensation acts. While political subdivisions are specifically exempt under USL&H, some ports have voluntarily become subject to or pay the same benefit levels as specified in the Act due to negotiated labor contracts. In addition, ports may be subject to the contingent-liability of contractors and others who fail to maintain appropriate insurance coverage for their employees. Standard workers' compensation policies do not extend to obligations created by federal acts. Coverage can be obtained under the standard policy, however, by the addition of a U.S. Longshore and Harbor Workers' Compensation Act Endorsement.

Jones Act

This federal act specifies the rights of American sailors, masters, and members of crews for injuries sustained in the course of their employment. Unlike state workers' compensation statutes, this Act does not provide statutory limitations for injuries or medical benefits. It is a negligence type of act without restrictions to recovery from the employer. Ports may be subject to the provisions of this Act when police, fire, maintenance, or other vessels are operated by the port. Coverage for this exposure can be provided by one of several methods. The normal and most common method is to insure the exposure under a protection and indemnity policy (P&I). For a further discussion on this policy, see the discussion under Marine Insurance. Insurance for this exposure can also be provided under the Employers' Liability Coverage B of the standard workers' compensation policy attaching "Amendment to Coverage B Endorsement-Maritime." This endorsement broadens the territorial limits of the policy and permits separate limits for maritime exposures. Coverages can also be provided in a voluntary compensation endorsement which is amended by the addition of an "Amendment of Voluntary Endorsement – Maritime Coverage".

Federal Employers' Liability Act

This federal act specifies the rights of interstate railroad employees. Like the Jones Act, it does not provide statutory limitations for indemnity or medical benefits. It is a negligence type of act that does not restrict the recovery from an employer.

Ports subject to this exposure can obtain coverage under the standard workers' compensation policy by specific endorsement and reporting of appropriately classified payrolls. Because this is a negligent act, without statutory benefit level provisions, the $100,000 limit for employers' liability coverage found in the standard workers' compensation policy should be increased either to $500,000 or $1,000,000 and applying the port's umbrella policy as excess insurance protection. Voluntary Compensation coverage is a valuable supplement which may avoid litigation by making statutory workers' compensation benefits available on a "no-fault" basis.

Miscellaneous Insurance Coverages

Management Information Systems (MIS)

MIS equipment plays an integral role in managing and coordinating the operations of ports across the country. While limited coverage is available under standard property and boiler and machinery policies, the unique, specialized and critical nature of MIS functions makes the purchase of specific insurance coverage advisable.

Special MIS insurance is available to protect a port from:

- Physical damage to or destruction of hardware, media, and data.
- Extra expense involved in utilizing alternative facilities, emergency repairs to damaged facilities, additional personnel, overtime wages to resume or sustain MIS operations.
- The cost of recapturing or reproducing lost data.
- Loss of business income resulting from interruption of MIS operations.

Coverage is available on an "all risk" basis including electrical breakdown. The risk manger will have to consider a number of factors.

- In selecting the limit for physical damage, the purchase price of owned equipment should not be used because it may be insufficient to cover the cost of prudent upgrading in view of technological advancements or the unavailability of identical equipment. The contract obligations for leased equipment will determine the appropriate limit, which may exceed the purchase price or current market value of the equipment involved.

- Estimates of all costs of operating at alternative facilities for the period of time required to rebuild present facilities would be the measure of Extra Expense limits.
- If adequate periodic duplication of data is practiced and the duplicate copies are stored off premises, the reproduction costs should be minimal. However, if some data must be reconstructed from source documents, material expense could be involved.
- The determination of an adequate limit for loss of business income will require the combined efforts of operations, MIS, and financial personnel.

Risk management action before a loss can play a major part in minimizing the loss arising from interruption of MIS operations. Pre-loss planning for the use of an off premises "hot site" or reciprocal agreements with local organizations having compatible equipment to allow use of facilities during non-working hours are practical loss mitigation actions. Daily or weekly duplication of computer data for safe storage at an appropriate off premises site will minimize recapture and reconstruction functions. Periodic reevaluation of potential business interruption from loss of MIS operations will assure adequate limits for this exposure.

Non-Owned Aircraft

Most ports do not own aircraft. However, a contingent liability exposure does exist if a port charters aircraft for port sanctioned trips. While coverage carried by the aircraft owner is primary, a port could be joined in a suit with the owner as a result of the operation or use of the aircraft. Non-owned aircraft liability coverage is excluded from primary general liability policies. Many umbrella liability policies exclude coverage for aircraft owned or chartered by or on behalf of the insured. Coverage is further excluded for employees who operate an aircraft in the course of their employment.

A port can purchase a primary non-owned aircraft liability policy to protect itself from this loss exposure. The umbrella carrier may then be willing to amend its policy to include this exposure so as to provided added limits of insurance protection. A final alternative is to attempt to amend the port's umbrella liability policy to respond to all non-owned aircraft claims, regardless whether or not there is primary coverage. This alternative, of course, would make the port responsible for the umbrella's retention. Because of the catastrophic nature of this loss exposure, it is important that ports subject to non-owned aircraft exposures secure insurance protection through one of the alternatives discussed.

Special Events Liability

From time to time, a port will sponsor activities or make port facilities available to individuals or organizations for events not usual to a port's operations. The events can include parties, outings, special tours, or off-site activities, such as golf outings, employee outings, boat charters, sporting events, etc. Underwriters accept certain activities as normal to a port's operations, but will treat others as unacceptable or beyond the scope of accepted risk for which premium has been charged.

There are two options available to a port to handle these situations. First, to have the port's policies endorsed to specifically grant coverage or, second, to purchase a special events policy to insure an event outside of existing coverage. The latter insulates existing insurance from losses which could adversely affect future coverage and pricing. Also, coverage not otherwise available under existing policies can be obtained, i.e., hole-in-one insurance, athletic participants accident insurance.

Under special events policies, coverage can be specific, limited in time, place and amount with premium charged for the event only. Blanket insurance for a facility or types of events occurring with some regularity is also available at pre-agreed rates, limits, deductibles, etc.

It is recommended that the purchase of special events insurance be weighed against the future effect on existing insurance if the risks arising from special events were to be included as "usual operations."

In any case, both the port and the sponsoring organization(s) should be named as insureds under insurance policies covering special events.

CHAPTER 7: EMERGENCY MANAGEMENT PLANNING

Introduction

Present day conditions necessitate emergency planning. After identifying hazards and risks, an agency should prepare an Emergency Operations Plan (EOP) outlining employee procedures to follow before, during, and after an emergency that may involve any identified hazards.

An EOP:

- Provides for health, safety, and welfare of people.
- Provides for business continuity.
- Helps maintain essential services.
- Saves money.
- Provides for a systematic way of responding to an emergency situation.
- Meets legal requirements.

Without an EOP, response to an emergency results in chaos, organizational survival is threatened, and recovery is nearly impossible. All of which may lead to economic disaster.

Plan Development

The EOP should be comprehensive. It should cover all aspects of emergency management and all types of emergencies. As recommended by the Federal Emergency Management Agency (FEMA), the EOP should grow out of a planning process conducted by a planning team. This team should include representatives from all divisions/sections of your agency.

It is recommended that your EOP be organized into three basic components. They are:

- *Basic Plan.* Serves as an overview of your agency's approach to emergency management, including broad policies, plans, and procedures.
- *Annexes.* Supports your Basic Plan and is carried out by functional annexes that address specific activities critical to emergency response and recovery.
- *Appendices.* Hazard specific appendices support each functional annex (as necessary) and contain technical information, details, and methods for use in emergency operations.

Furthermore, FEMA recommends four phases of comprehensive emergency management be used in developing your emergency plan. Briefly, they are:

- *Mitigation.* Identifying, eliminating, or reducing a hazard before the disaster occurs.
- *Preparedness.* Training, developing plans, and providing communication and warning systems.
- *Response.* Activities following an emergency or disaster.
- *Recovery.* Short term and long term recovery continues until all systems return to normal.

Plan Content

Following is a recommended guide for topics that may be included in your emergency plan. It is recognized that each organization is unique and may vary from this guide. This guide is intended to be an aid in developing and maintaining an emergency operations plan.

- Statement of Purpose (provides guidance and prepares employees to respond properly when a disaster strikes).
- Statement of Objective (provide for the safety of employees and the public, and then to restore operations back to normal as quickly as possible).
- Executive Director (powers and duties).
- Succession of Authority.

- Mobilization of Resources.
- Employee Responsibility.
- Division/Section Functional Responsibility.
- Procedures for Communicating with and Instructing Employees.
- List of Essential Classes/Positions.
- Procedures for . Recalling Essential Classes/Positions.
- Reporting Locations (Operations Center, Alternative Worksite).
- Resource Inventory (Personal Skills, Equipment, and Supplies).
- Emergency Management (Incident Command System).
- Training and Exercises.
- Vital Records Management
- Evacuation Procedures (Building and Area).
- Recovery and Reconstruction (Damage Assessment, Documentation, and Funding).

The above mentioned items are recommended guidelines only. Each EOP should be developed around your own organization's objectives, mission, and needs.

Recommended documents that provide emergency planning and emergency management guidelines can be found under Reference Books and Periodicals (pages A--19 and A--20) in Appendix A.

CHAPTER 8: PORT SECURITY PLANNING

Port Security Applications of Systemic Risk Analysis

A comprehensive security risk analysis for port and marine intermodal freight movement can enhance the ability of port security managers to execute their risk management responsibilities. It is an important tool for documenting, monitoring, and assessing the impact and effectiveness of the security systems and crime countermeasures implemented throughout every phase in the shipping cycle.

Effective port security planning can result in the development and implementation of measures to reduce port vulnerabilities. Recognition of potential vulnerabilities must precede development of appropriate countermeasures. Port security management must be capable of ascertaining the nature and magnitude of all foreseeable security threats to the port's operations. Consequently, a comprehensive security survey and risk assessment is the first task in the process of establishing an effective port security regime.

Risk Assessment

The security of a maritime cargo shipping cycle – from the product producer at the source to the consignee at the destination – can be assessed by examining its vulnerabilities in comparison to the threats it faces (e.g., cargo theft, drug smuggling). The quality of the security standards and practices can be measured in relation to intended outcomes by analyzing, documenting, and rating the operational methods of individual shipping and transport facilities, installations, and activities.

Risk Management

Alternative courses of action for controlling risks can be selected by processing the information derived from the risk assessment. The operational flows of the system can be modeled using plausible scenarios to identifying vulnerable transaction points in the shipping cycle and determining root causes of risk (e.g., lax security in freight forwarding operations). This process continues to formulate preventive actions and execution of an implementation plan. By taking a systemic approach, anti-crime security can be implemented, made accountable, and auditable for an entire freight transport system or even international trade corridor to ensure secure and profitable freight movement.

This chapter represents a brief outline relating to a subject on which much has been written. It is provided only as another area the risk manager should address.

The risk management process should include the planning and development of port security. It is an integral facet of the port risk management process. The port security mission is to prevent or minimize injuries to personnel, damage to port property, loss of cargo due to criminal activity, terrorists, or disgruntled employees.

Security Issues

All too often ports are concerned only about risks or threats that exist at their port without taking into consideration the activity occurring in nearby or distant ports, which could have an adverse impact on the port. A seaport, by the nature of its business, is a microcosm of the world. Ships travel daily loading, transporting, unloading their cargo from port to port, thereby contributing to the globalization of free trade. As such, world problems can become problems for the port.

Ports generally have certain countries and shipping lines that engage in interstate and international trade. As such, if the shipping line is experiencing losses from employees or criminal activity, these problems can soon become a problem for the port. Likewise, personnel in the ships crew could be part of an organized crime group who engage in criminal activity, transporting stolen goods, drugs, money from one port to another, as well as from one country to another.

In addition to these losses, ports and shipping lines face assessment of severe financial penalties from government agencies for failure to take strong measures to prevent such occurrences.

It is important for risk managers to be current on security issues in the countries their port is serving and to be knowledgeable of any criminal activity surrounding shipping companies serviced by their port. These issues could easily transfer to the port if proper security measures are not in place.

Risks/Threats

Port risk managers face a myriad of risks and threats. They manifest themselves in forms of cargo theft, smuggling of narcotics and currency, terrorism, piracy, stowaways, labor unrest, as well as hijackings. Increasingly cargo theft and the smuggling of narcotics and currency are a growing problem generating significant revenue. Organized criminal gangs, some of whom are multinational and operate in several ports located in a number of countries, may commit these acts.

They target high priced items, such as computers, fashion design clothing, perfumes, and liquor, which are easily sold in the underground distribution network and difficult for law enforcement to trace.

It is not uncommon for the gang to have a "plant" inside the port or shipping company with access to shipping information. These gangs have demonstrated the ability to shift to other ports in continuance of their criminal enterprise when security measures are enhanced at the port in which they currently operate.

Terrorists have used the sea lanes to illegally transport weapons and explosives to terrorist groups in other countries. There have also been incidents where hoax bombs and bomb threats have been directed at a port and ship. These actions were perpetrated in connection with an extortion scheme and for general disruption of port operations. In both instances, port operations were disrupted for a significant period of time.

Port Security Pre-Planning

In development of a port security plan, the port size, content of product and services within the port perimeter must be taken into consideration. When designing your plan, it should reflect feedback not only from the Port Director's office, Directors' of Operations and Security, but also consultation with the U.S. Coast Guard (Captain of the Port); U.S. Customs; Directors' of Planning, Facilities, and Vendor Operations; General Counsel; and emergency service providers (local law enforcement, fire service, and medical).

Discussion should also be conducted with shipping companies and vendors operating on and off the port, who are either serviced by the port or service the port. Their perspective of issues to be addressed should be solicited.

These individuals and groups will have valuable information that will provide for a comprehensive and integrated security plan, encompassing port and vendor operations as well as regulatory compliance.

Development of a Port Security Plan

Prior to developing a port security plan, a comprehensive physical security survey should be conducted, identifying the port vulnerabilities, assessing risks and threats, and offering methods to mitigate these issues. Such a survey will result in a more cost effective and efficient security plan. The plan should address current as well as future security issues that could arise.

All too often ports address current problems, failing to identify future threats, resulting in reduced efficiency, increased cost, and most probably providing a solution that does not interface with the previous plan.

It is recommended that risk managers develop their plans utilizing a five-step process: *assessment, field interviews, physical survey, internal review,* and issuance of a *formal report.*

Assessment

The *assessment* process includes a detailed briefing from:

- The Port Director's office
- Directors' of Port Operations, Security, Planning, Facilities, and Vendor Operations
- U.S. Coast Guard
- U.S. Customs
- General Counsel
- Emergency service providers such as local law enforcement, fire, and medical services

This briefing level is important to determine what they perceive as problems and vulnerabilities, identification of future port operational plans and expansion, and identification of personnel for field interviews.

Field Interviews

The second step, *field interviews* involves:

- In-depth interviews of key personnel
- Detail descriptions of their responsibilities
- Perception of issues and vulnerabilities.

It has been found that perceptions of issues and vulnerabilities change the further down the management level we proceed.

Physical Survey

In the *physical survey* step, an actual on-site evaluation is conducted to assess:

- perimeter security
- access/egress control
- review of facility security systems
- management information systems which house shipping data
- security personnel

It is important to evaluate perimeter lighting, closed circuit television (CCTV) coverage, alarm systems, and access control to the management information systems (MIS) system containing shipping information. In addition, the communication systems must be assessed to determine if timely information can be transmitted to security forces, to alert them of occurrences within the port, outside the port, and with other pertinent ports.

Furthermore, a risk assessment of the surrounding physical environment and criminal activity should be conducted.

Internal Review

The *internal review* should consist of:

- Reviewing and evaluating current physical security manual/plans and operations
- Assessment of crisis management and emergency management plans to mitigate a security or fire emergency
- A review of business operations

The last process should be preparation of a formal report, either verbal or written, or both. This will be important in documenting your port vulnerabilities, assessing risk, and outlining methods to mitigate risk. The report will be your justification for funds to address the identified problems.

SUMMATION

As you develop a port security plan, ensure that it is comprehensive, methodical, and identifies not only current problems but also projects into the future. When developing the plan, remember it is better to be pro-active than reactive.

APPENDIX A: RESOURCES

GLOSSARY OF INSURANCE TERMS AND COVERAGES

Accounts Receivable. Protects sums due you that become uncollectable because of damage or loss of records or accounts as well as cost to reproduce information lost or damaged by an insured peril.

Additional Persons Insured. Automatic coverage for any spouse of a partner arising out of the activities of a partnership and for any employee while acting within the scope of his or her duties.

Advertising Injury Liability. Protects from liability arising out of advertising activities. (Not intended for a firm that is in the business of advertising, broadcasting, publishing or telecasting).

Aircraft Liability. Covers liability arising out of the ownership, operation or use of any owned or non-owned aircraft including aircraft loaned to, leased to, rented to or chartered by the named insured with crew.

Architects' Fees. The cost of architectural plans should be considered in determining the value of the building.

Auto Physical Damage. Covers Direct Physical Loss or Damage to owned or long-term leased auto units, including collision or upset. (Long-term leased vehicles are those leased for 12 months or longer).

Automobile Liability. Protects against loss arising from legal liability for bodily injury or property damage to others caused by an accident and arising out of the ownership, maintenance, use, loading or unloading of an automobile.

Blanket Crime Policy. This coverage packages five crime coverages (insuring agreements). They are Employee Dishonesty, Loss Inside the Premises, Loss Outside the Premises, Money Orders – Counterfeit Currency, and Depositors Forgery. A combined single limit of insurance applies and the coverages are non-elective. The employee dishonesty limits apply per employee each loss, unlike standard employee dishonesty policy which applies "all employees" each loss.

Boiler & Machinery. Covers loss or damage to pressure vessels, machinery (including air conditioning equipment) and electrical apparatus arising out of rupture or explosion of pressure vessels or machinery breakdown.

Boiler and Machinery. Covers indirect loss resulting from an accident to an insured object. Indirect damage coverages available under a boiler and machinery policy include business interruption, extra expense, consequential damage and rental value covers.

Broad Form Commercial General Liability Policy Coverages. Provide coverage for Contractual Liability, Personal Injury and Advertising Liability, Host Liquor Liability, Fire Damage Liability, Broad Form Property Damage, Non-Owned Watercraft, World Wide Liability for suits brought in United States, Employees as insureds, extends the definition of "occurrence" for Bodily Injury to include an intentional act from the use of reasonable force for the purpose of protection of persons or property, and 90 days automatic coverage for newly acquired organizations.

Broad Form DIC Cover. Covers loss or damage to buildings and contents from the perils of subsidence, collapse, landslide, mudslide, or earth movement.

Broad Form Property Damage Including Completed Operations. This policy modification broadens the standard Property Damage Liability, by redefining the care, custody and control exclusion. With this extension included, the exclusion will only apply to that particular part of the property on which you are working and exercising direct control.

Builder's Risk. Covers loss of or damage to buildings, equipment, machinery while in transit, on-site and off-site storage and during the course of construction on a "named peril" or "all risk" basis. Coverage for indirect losses (business income, extra expense, etc.) can be added by endorsement.

Business Income. Replaces the operation income of your business when damage to the premises or other property causes loss of earnings. (Gross earnings or loss of earnings forms available).

Captive Insurance Company. An insurance company set up to insure the risks of its owner or owners within the same industry, usually in a country or state with favorable regulation and tax laws, such as Bermuda, the Cayman Islands, or Colorado.

Comprehensive 3-D Policy. The basic 3-D Policy has the same five insuring agreements with additional agreements available by endorsement. Coverage may be written under one or more agreements, each independent of the other as to specific protection and amount of penalty.

Computer Fraud Coverage. Covers Loss resulting from the wrongful abstraction of Money, Securities, or other property which follows and is related to the use of any computer to fraudulently cause the transfer of such property.

Contingent Business Interruption. Replaces the operating income of your business when damage to an outside premises caused loss of earnings. You may be dependent upon one or a few manufacturers or outside locations or suppliers. One or a few companies may purchase all or most of your products or services or you may derive all or most of your business from a neighboring company.

Contingent Extra Expense. Reimburses you for the additional expense of continuing your operations caused by loss or damage at contributing properties.

Contractual Liability. Amends definition of "incidental contract" to include any contract or agreement relating to the conduct of your business. Coverage applies to both written and oral agreements.

Counterfeit Paper Currency. Covers losses arising from your acceptance of counterfeit U.S. or Canadian paper currency or of post office or express company money orders which are not honored.

Defense Base Act Endorsement. Extends the benefits of the USL&H Act to civilian employees at any military, air or naval bases acquired by the United States (after January 1, 1940) from foreign governments and to public works contracts outside the United States.

Demolition and Increased Cost of Construction. Covers demolition cost, loss of undamaged property and increased construction cost required under the prevailing building code.

Depositors Forgery. Covers loss sustained by reason of forgery or alteration of checks, drafts, promissory notes, bills or exchange, or similar written instruments drawn upon and accepted by your bank account. An important feature of this coverage is the inclusion of legal defense costs arising out of the bank's allegation of insured's negligence.

Earthquake. Covers loss or damage to buildings and contents from the peril of earthquake.

EDP. Covers indirect loss resulting from loss or damage to your EDP equipment, data or media. Indirect damage coverages available under an EDP policy include business interruption, extra expense, valuable papers and accounts receivable.

Employee Benefit Liability. This coverage would protect you from liability from a negligent act, error or omission in the administration of your employee benefit program. This liability could arise from the failure to enroll an eligible employee, or from failure to inform an employee of a reduction of benefits, or from any other negligent act, in administration of Employee Benefit Plans. (Note: Certain liability of the company for their responsibilities under the ERISA Act of 1974 is not included in this coverage extension. Remaining exposure, where insurable, may be covered under Fiduciary Liability {ERISA} policy).

Employee Dishonesty. Covers loss of money, securities and other property resulting from dishonest acts committed by employees acting alone or in collision with others. This is a "discovery" form of insurance in as much as the loss is calculated from the date of discovery for a historical continuing series of events.

Employers' Liability. Coverage for common law liability arising from work-related accidents that are not compensable under Workers' Compensation coverage.

Employment Practice Liability. Coverage for your legal liability for discrimination arising out of your employment practices including, but not limited to, salary and/or compensation, sex, religion, race, disability, training and/or promotion policies.

Environmental Impairment Liability (Pollution). Covers liability for both "sudden and accidental" as well as "gradual" pollution of land, air or water – including settlement costs, litigation expense and clean up costs. (Claims arising from hostile fire are normally included in the basic CGL policy).

Executive Officers Endorsement. Required in some states to designate the executive officers who should be covered under your Workers' Compensation and Employers' Liability policy. If none are designated, executive officers are not covered for benefits in that state. Depending upon the statute of individual states, may be required to extend coverage to executive officers or delete coverage for Executive Officers.

Extended Bodily Injury. Amends the definition of occurrence to include any intentional act by or at the direction of the insured provided such bodily injury results from the use of reasonable force for purposes of protecting persons or property.

Extra Expense. Reimburses you for the additional expense of continuing your operations caused by damage to your property.

Facultative Reinsurance. Reinsurance of individual risks as contrasted to treaty reinsurance where the reinsurer accepts blocks of risks.

Federal Employers' Liability Act Endorsement. Covers liability to employees of an interstate or otherwise eligible railroad. (A liability coverage).

Fiduciary Liability (ERISA). Covers liability of a plan(s) or trust(s) and its/their trustees or administrators imposed by the Employee Retirement Security Act of 1974 for claims from a "wrongful act" in the handling of pension plans, employee benefit plans and other subject plans. "Wrongful Act" is defined as any actual or alleged error or omission or breach of duty committed or alleged in the discharged of their fiduciary duties, obligations or responsibilities, including the violation of any standards imposed by ERISA.

Fire Legal Liability – Real Property. Coverages your legal liability for loss or damage of leased premises caused by fire, when such damage is alleged to have been the result of your negligence.

Flood. Covers loss or damage to buildings and contents from the peril of flood.

Foreign Voluntary Compensation Coverage. Offers Workers' Compensation benefits to U.S. Nationals who temporarily work outside the U.S. Coverage is also provided for employees and executive officers whose principal duties are confined to the U.S., but who travel outside the country. Most state laws provide automatic coverage for up to 90 days. Coverage includes wage benefits, medical expenses and repatriation expenses.

Hired Automobiles. A hired automobile is an automobile that is loaned to you or used under contract on your behalf.

Host Liquor Liability. Coverage is provided for the liability of the insured for giving or serving, but not selling, alcoholic beverages at functions incidental to your business.

Incidental Medical Malpractice Liability. This coverage provides protection for your liability arising from malpractice of a healthcare provider for the rendering of, or failure to render medical, surgical, dental, x-ray or nursing service, treatment or for the furnishing of food or beverages in connection therewith, or for the furnishing or dispensing of drugs or medical, dental, surgical supplies or appliances. (Not available to anyone in the business or occupation of providing medical or related services).

Independent Contractors Coverage. Provides protection against claims resulting from operations of independent contractors.

Jones Act Endorsement. Covers liability for transportation, wages, maintenance and cure for the master and members of the crew of any United States vessel. (A liability coverage).

Kidnap & Ransom. Most commonly known as "Executive Risk" insurance because of a policy condition which requires that the evidence of this insurance not be disclosed. Cost of ransom payments to release officials (and their families) who are abducted or kidnapped while traveling on company business domestically or overseas.

Lease Hold Interest. Covers tenant's financial loss if an advantageous lease is cancelled because of substantial damage or destruction of most or all of the building. Bonus payments, advanced rents and improvements and betterments may be covered under a special lease hold interest form.

Limited Worldwide Liability. Covers bodily injury, property damage, personal injury or advertising injury which occurs outside of the United States of America, its territories or possessions, or Canada provided the original suit is brought within the U.S. Coverage does not apply to premises medical payments claims arising from your products or completed operations. (Specific coverage is available for any organization having operations outside the covered areas).

Medical Payments. Provides voluntary coverage for all reasonable and necessary medical, surgical and dental expenses resulting from an accident involving non-employee occupants of an owned automobile.

Money and Securities. Covers loss of money, securities and other property due to dishonesty, destruction or disappearance while on the premises and outside the premises (while conveyed by a messenger or armored car or while at the home of a messenger).

Monopolistic State Funds. The states of Nevada, North Dakota, Ohio, Washington, West Virginia and Wyoming require purchase of Workers' Compensation from the state fund. Private insurance is not permitted. Applies also in provinces of Canada.

Newly Acquired Organizations - Automatic Coverage. Automatically protects any newly acquired or formed organization for 90 days in which you either own or have a majority interest (provided it is not part of a joint venture).

Newly Acquired Property. Most property forms provide automatic coverage for a specific number of days in limited amounts on buildings and personal property at newly acquired premises. Increased limits are available by endorsement.

Non-Owned Automobiles. A non-owned automobile is one that is neither "owned" or "hired."

Non-Owned Property. Covers loss or damage to tenant's interest in improvements and betterments and personal property of others in your care, custody or control. Non-owned may involve bailee operations, leased property, property on consignment or employees' property.

Off-Premises Coverage. Covers loss or damage to your business personal property at non-owned premises. Most property forms provide limited coverage. Increased coverage is available by endorsement.

Outer Continental Shelf Lands Act Endorsement. Extends the benefits of the USL&H Act to employees on offshore drilling platforms or engaged in exploratory operations. Limited case law exists which establishes off shore drilling platforms to be "vessels," thus invoking the Jones Act.

Owned Automobiles. An owned automobile is any automobile that you legally own, including automobiles leased for periods of 12 months or more.

Owned Personal Property. Covers loss or damage to business personal property including furniture, fixtures, equipment and supplies.

Owned Real Property. Covers loss or damage to owned buildings and attachments, stationary building service equipment (including fixtures, machinery and equipment) and personal property used to service a building.

Pension and ERISA Bonding Requirements. Under the Employee Retirement Income Security Act of 1974, all Employee Benefits Plans are required to maintain Dishonesty Insurance in the amount of 10% of the funds handled in each plan, but not less than $1,000 or more than $500,000 each. This Act requires bonding of fiduciaries (as defined by the Act) and every person who handles funds or other property of a plan. The Act specifies that the bond is to protect the plan against loss by reason or acts of fraud or dishonesty by plan officials. Banks and insurance companies that are acting on behalf of fiduciaries normally need not be bonded. Coverage may be added by endorsement to the crime policy. However, because ERISA requires that the affected plan be reimbursed first, a substantial loss involving combined funds could leave little or no limits available for the organization. Separate coverage with separate limits can be obtained through an inexpensive ERISA Compliance Bond.

Personal Effects. Covers loss or damage to personal effects of officers, partners or employees on your premises. Most property forms provide limited coverage, subject to a maximum per person. Increased coverage is available by endorsement.

Personal Injury Liability. Basic coverage protects from liability arising out of the following offenses: false arrest, detention or imprisonment, malicious prosecution, libel, slander, defamation, or violation of right of privacy, wrongful entry or eviction or other invasion of right of private occupancy; this coverage may be extended to apply to these offenses when they involve an employee, or to liability assumed by contract.

Personal Injury Protection (PIP). Statutory "no fault" coverage required in many jurisdictions providing for the payment of medical expenses, death benefits, income continuation and essential service benefits to an insured person, subject to an aggregate amount for any one person.

Physical Damage Coverage for Non-Owned Automobiles. The standard auto physical damage coverage part provides insurance only on those non-owned, autos that are leased by a firm for periods of 12 months or more. Two physical damage forms for non-owned autos are available, one provides coverage on a primary basis and the other provides coverage on an excess basis.

Premises Medical Payments. Pays for reasonable medical expenses caused by accident, and arising out of ownership, maintenance, or use of the insured premises and operations. Coverage applies to each person, other than the insured or his employees, who sustain injury, sickness, or disease. Negligence need not be established as a condition precedent to payment by insured.

Premises-Operations Liability. This protects against claims of bodily injury to others or damage to property of others, arising out of premises owned or leased and occupied by your company, as well as business operations away from such premises.

Product Guarantee Insurance. Covers the costs involved in fulfilling your legal liability to repair or replace defective products.

Products Recall Expense. Covers expenses incurred by you in the event of a total or partial withdrawal of a product because of accidental or malicious contamination or threat thereof.

Products – Completed Operations Liability. Protects against claims for injuries or property damage from occurrences involving products after they are sold or operations after the job has been completed.

Professional Liability. Coverage for legal liability claims arising out of the rendering or failure to render professional services.

Public Officials Liability. Covers the personal liability of public officials and commissioners from claims alleging a wrongful act while acting in their individual or collective capacities, and covers the organization's obligation to indemnify the public officials or commissioners as required by the organization's by laws, charter, or statute or common law. Coverage can be extended to include outside, non-profit directorships if held at the direction of the organization.

Rent or Rental Value Insurance. Protects building owner for loss of rent when payments are discontinued because the premises are made untentantable by a fire or other insured peril. Protects owner-occupant for loss or rental value when the premises are rendered untentantable and it is necessary to rent other premises. Protects tenants for loss of rental value if the lease provides that rent payments will be continued even if the premises are rendered untenantable.

Rental Income. Covers loss of rental income suffered by you if a building you own and lease to others is damaged or destroyed.

Replacement Cost Insurance. Indemnifies you for property damage losses on the basis of the full replacement cost at the time of loss (with no deduction for physical depreciation).

Signs. Provides coverage for loss or damage to detached neon, mechanical or electrical signs.

Stop Gap Liability. Coverage for Employers' Liability in monopolistic states and provinces of Canada, coverage includes judgments and defense costs where permitted.

Surplus Lines. Insurance that is not usually available from admitted carriers and is written with non-admitted companies.

Time Element Exposures – Inland Marine. Covers loss of earnings and/or extra expenses for inland marine classes (builders risk, installation floater, contractors equipment, terminal covers).

Towing Coverage. Pays for towing and labor costs because of a disablement, subject to specified limit.

Transit Insurance. Covers loss that may occur while property is being transported.

Trees, Shrubs and Plants. Most property forms provide limited coverage, subject to a maximum limit per tree, shrub or plant. Increased coverage is available by endorsement.

U.S. Longshore and Harbor Workers' Compensation Act Endorsement (USL&H). Covers liability for statutory benefits for maritime employment - excluding the master and members of the crew of any vessel in navigable waters. The Act is also applicable to employees (other than government employees) in the District of Columbia.

Umbrella Liability. A stand alone excess liability policy which includes commercial general liability, automobile liability and employer's liability plus other liability coverages that can be negotiated into the policy. The "umbrella" features are the "drop through" and "drop down" conditions of the policy. Where the umbrella terms are broader than those of the underlying insurance, the umbrella policy extends coverage excess of a minimal self insured retention - this is the "drop through" feature. Where primary aggregate limits are exhausted by payment of claims, the umbrella policy becomes primary insurance - this is the "drop down" feature.

Underground Property. Coverage on underground property (including excavations, foundations, pilings and pipes) and the cost of excavations can be added by endorsement.

Underinsured Motorist Coverage. Coverage for legal liability of another whose limits of automobile liability insurance are less than the named insured's. In some jurisdictions that is required by statute.

Uninsured Motorist Coverage. A statutory coverage for legal liability of another arising from the operation of an automobile that is not insured or whose insurer is insolvent.

Use of Other Automobiles – Broad Form (DOC). Provides liability and medical payments coverage for a named individual and spouse while using a non-owned, hired or borrowed automobile for personal use. This coverage is important when the company car is the only car in the individual's household.

Valuable Paper and Records. Covers loss to Valuable Documents and Records such as historical documents, blueprints, architectural plans, manuscripts, deeds and maps including reproduction costs.

Vendors Liability. Extends Products Liability Coverage to protect Vendors of your products if they become involved in a products liability claim against you. Coverage applies only if Vendor has not changed, worked upon, altered, labeled, or made unauthorized modifications or warranties involving your product.

Voluntary Compensation. Offers Workers' Compensation benefits to employees who are eligible for statutory coverage under specific state law.

Watercraft Liability. Covers liability arising out of the ownership, operations or use of any owned or non-owned watercraft. The present basic CGL policy provides non-owned Watercraft Liability Coverage for any watercraft up to 26 feet in length provided such watercraft is neither owned by the named insured nor being used to carry persons or property for a charge.

Workers' Compensation. Covers liability for statutory benefits as provided by the applicable Workers' Compensation Law and any Occupational Disease Law of the state(s) designated in the policy declarations.

Worldwide Liability. Covers bodily injury, property damage, personal injury or advertising injury which occurs outside of the United States of America, its territories or possessions, or Canada (whether or not the original suit is brought within the U.S.). Can include products and completed operations liability.

RISK MANAGEMENT ORGANIZATIONS

1. Public Risk Management Association (PRIMA)
   1815 N. Fort Myer Dr., Suite 1020
   Arlington, VA 22209
   o: 703/528-7701
   fax: 703/528-7966
   E-mail: info@primacentral.org
   Web site: www.primacentral.org

   Hours: 8:30 a.m. to 5:30 p.m. EST

   Mission: The Public Risk Management Association promotes effective risk management in the public interest as an essential component of public administration.

   Goals: Deliver Information
   Expand Customer Base
   Build Relationships
   Utilize Technology

   Services: educational programs, publications, information services, and recognition programs.

2. Risk and Insurance Mangement Society, Inc. (RIMS)
   655 Third Ave.
   New York, NY 10017
   o: 212/286-9292
   Web site: www.rims.org

   Mission: RIMS Mission is to advance the theory and practice of risk management by: promoting the awareness, understanding, and application of risk management; and developing the competency and influence of risk managers, thereby positioning risk management as a discipline vital to the protection and utilization of human and financial resources.

LIST OF PUBLIC PORT RISK MANAGERS (BY REGION)

North Atlantic

Albany
General Manager
195 Broadway
Albany, NY 10007
USA
Phone: (518)463-8763
Fax: (518) 463-8767

Baltimore
Director of Risk Management
2700 Broening Highway
Baltimore, MD 21224
USA
Phone: (410)385-4415
Fax: (410) 333-3402

Boston
Assistant Director, Risk Management
10 Park Plaza
Boston , MA 21224
USA
Phone: (617) 973-5500
Fax: (617) 973-5357

Bridgeport
Executive Director
45 Lion Terrace
Bridgeport, CT 6604
USA
Phone: (203) 384-9777
Fax: (203) 385-9686

Camden
Chief Executive Officer
2500 Broadway
Camden, NJ 8104
USA
Phone: (609) 541-8500
Fax: (609) 757-4923

New Haven
Harbor Master
Bureau of Aviation & Ports
New London, CT 6320
USA
Phone: (203) 443-3856
Fax: (203) 437-7251

New London
Harbor Master
Bureau of Aviation
New London, CT 6320
USA
Phone: (203) 443-3856
Fax: (203) 437-7251

New York/New Jersey
General Manager
241 Erie St.
Room 306
New Jersey City, NJ 7310
USA
Phone: (212) 435-7000
Fax: (212) 435-6032

Philadelphia
Administrator, Safety & Health Programs
800 Hudson Square
8th & Cooper
Philadelphia, PA 8102
USA
Phone: (609) 968-2000
Fax: (609) 964-8106

Wilmington
Director of Operations
P. O. Box 1911
Wilmington, DE 19899
USA
Phone: (302) 571-4643
Fax: (302) 571-4646

Wilmington
Director
2202 Burnett Blvd.
Wilmington, NC 28402
USA
Phone: (910) 763-1621
Fax: (910) 763-6440

South Atlantic

Canaveral Port Authority
Assistant Risk Manager
P.O. Box 267
Cape Canaveral, FL 32920
Phone: (407) 783-7831
Fax: (407) 783-4317

Georgia Ports Authority
P.O. Box 2406
Savannah, GA 31402
Phone: (912) 964-3811
Fax: (912) 966-3609

Jacksonville Port Authority
Risk Manager
2831 Talleyrand Ave.
Jacksonville, FL 32206-3496
Phone: (904) 630-3067
Fax: (904) 630-3076

North Carolina State Ports Authority
2202 Burnett Blvd.
Wilmington, NC 28402
Phone: (910) 763-1621
Fax: (910) 343-6210

Panama City Port Authority
Port Director
5321 W. Hwy 98
Panama City, FL 32401
Phone: (904) 763-8471
Fax: (904) 769-5673

Port Everglades
1850 Eller Dr.
Ft. Lauderdale, FL 33316
Phone: (954) 523-3404
Fax: (954) 525-1910

Port Manatee/Tampa Bay
13231 Eastern Ave.
Palmetto, FL 34221
Phone: (941) 722-6621
Fax: (941) 729-1463

Port of Miami
1015 North American Way
Miami, FL 33132
Phone: (305) 347-4823
Fax: (305) 347-4825

Port of Palm Beach
Deputy Director for Finance & Administration
P.O. Box 9935
Riviera Beach, FL 33419
Phone: (561) 842-4201
Fax: (561) 842-4240

South Carolina State Ports Authority
Manager, Risk and Claims
P.O. Box 817
Charleston, SC 29402-0817
Phone: (803) 577-8134
Fax: (803) 577-8616

Virgin Islands Port Authority
P.O. Box 1707
VDS
St. Thomas, VI 00803-1707
Phone: (809) 774-1629
Fax: (809) 774-8059

Virginia Port Authority
Director of Finance
600 World Trade Center
Norfolk, VA 23510
Phone: (757) 683-2170
Fax: (757) 683-8211

Gulf

Alabama State Docks Dept.
Risk Manager
P.O. Box 1588
Mobile, AL 36633
Phone: (334) 441-7118
Fax: (334) 441-7073

Mississippi State Port Authority at Gulfport
P.O.Box 40
Gulfport, MS 39502
Phone: (601) 865-4300
Fax: (601) 865-4335

Port of Beaumont
P.O. Drawer 2297
Beaumont, TX 77704
Phone: (409) 835-3995
Fax: (409) 835-0512

Port of Brownsville
P.O.Box 3070
Brownsville, TX 78523-3070
Phone: (210) 831-4592
Fax: (210) 831-5006

Port of Corpus Christi
Manager, Risk Management
P.O. Box 1541
Corpus Christi, TX 78403
Phone: (512) 885-6185
Fax: (512) 882-7110

Port of Freeport
P.O. Box 615
Freeport, TX 77541
Phone: (409) 233-2667
Fax: (409) 233-5625

Port of Galveston
P.O. Box 328
Galveston, TX 77553
Phone: (409) 765-9321
Fax: (409) 766-6107

Port of Greater Baton Rouge
P.O. Box 380
Port Allen, LA 70767
Phone: (504) 342-1660
Fax: (504) 342-1666

Port of Houston Authority
P.O. Box 2562
Houston, TX 77252-2562
Phone: (713) 670-2400
Fax: (713) 670-2429

Port of New Orleans
P.O. Box 60046
New Orleans, LA 70160-0046
Phone: (504) 522-2551
Fax: (504) 528-3209

Port of Pensacola
700 Barracks St.
Pensacola, FL 32501
Phone: (904) 435-1870
Fax: (904) 435-1879

Tampa Port Authority
811 Wynkoop Rd.
Tampa, FL 33601
Phone: (813) 272-0555
Fax: (813) 272-0570

North Pacific

Fraser River Harbour Commission
Ste. 500-713 Columbia St.
New Westminster, BC V3M 1B2
CANADA
Phone: (604) 524-6655
Fax: (604) 524-1127

Nanaimo Harbour Commission
Box 131, 104 Front St.
Nanaimo, BC V9R 5K4
CANADA
Phone: (250) 753-4146
Fax: (250) 753-4899

North Fraser Harbour Commission
2020 Airport Rd.
Richmond, BC V7B 1C6
CANADA
Phone: (604) 273-1866
Fax: (604) 273-3772

Port Alberni Port Commission
P.O. Box 99
Port Alberni, BC V9Y 7M6
CANADA
Phone: (250) 723-5312
Fax: (250) 723-1114

Port of Prince Rupert
110 Third Ave. West
Prince Rupert, BC V8J 1K8
CANADA
Phone: (250) 627-7545
Fax: (250) 627-7101

Port of Vancouver (BC)
1900-200 Granville St.
Vancouver, BC V6C 2P9
CANADA
Phone: (604) 666-9977
Fax: (604) 666-3309

Port of Anacortes
P.O. Box 297
Anacortes, WA 98221
Phone: (360) 293-3134
Fax: (360) 293-9608

Port of Anchorage
2000 Anchorage Port Rd.
Anchorage, AK 99501
Phone: (907) 343-6200
Fax: (907) 277-5636

Port of Bellingham
625 Cornwall Ave.
Bellingham, WA 98225-5017
Phone: (360) 676-2500
Fax: (360) 671-6411

Port of Everett
P.O. Box 538
Everett, WA 98206
Phone: (206) 259-3164
Fax: (206) 252-7366

Port of Grays Harbor
P.O. Box 660
Aberdeen, WA 98520
Phone: (360) 533-9528
Fax: (360) 533-9505

Port of Kalama
P.O. Box 70
Kalama, WA 98625
Phone: (360) 673-2325
Fax: (360) 673-5017

Port of Longview
P.O. Box 1258
Longview, WA 98632
Phone: (360) 425-3305
Fax: (360) 425-8650

Port of Olympia
915 Washington St., NE
Olympia, WA 98501-6931
Phone: (360) 586-6150
Fax: (360) 586-4653

Port of Portland
P.O. Box 3529
Portland, OR 97208
Phone: (503) 231-5000
Fax: (503) 731-7465

Port of Seattle
P.O. Box 1209
Seattle, WA 98111
Phone: (206) 728-3227
Fax: (206) 728-3205

Port of Tacoma
P.O. Box 1837
Tacoma, WA 98401
Phone: (206) 383-5841
Fax: (206) 593-4534

Port of Vancouver (WA)
P.O. Box 1180
Vancouver, WA 98666
Phone: (360) 693-3611
Fax: (503) 285-6091

South Pacific

Port Hueneme
Dep. Executive Director & Treasurer
P.O. Box 608
Port Hueneme, CA 93041
Phone: (805) 488-3677
Fax: (805) 488-2620

Port of Humbolt Bay
Chief Financial Officer
P.O. Box 1030
Eureka, CA 95502-1030
Phone: (707) 443-0801
Fax: (707) 443-0800

Port of Long Beach
Port Risk Manager
925 Harbor Plaza
Long Beach, CA 90802
Phone: (310) 590-4129
Fax: (562) 437-3231

Port of Los Angeles
Risk Manager
P.O. Box 151
San Pedro, CA 90733-0151
Phone: (310) 732-3758
Fax: (310) 831-0439

Port of Oakland
Risk Manager
530 Water St.
Oakland, CA 94607
Phone: (510) 272-1533
Fax: (510) 272-1172

Port of Redwood City
675 Seaport Blvd.
Redwood, CA 94063
Phone: (415) 306-4150
Fax: (650) 369-7636

Port of Richmond
Risk Manager
c/o City of Richmond
2600 Barrett Ave.
Richmond, CA 94804
Phone: (510) 620-6605
Fax: (510) 233-3105

Port of Sacramento
Director of Finance & Administration
1251 Beacon Blvd.
West Sacramento, CA 95691
Phone: (916) 371-8000
Fax: (916) 372-4802 .

Port of San Diego
Audit & Risk Management Services
P.O. Box 488
San Diego, CA 92112
Phone: (619) 686-6423
Fax: (619) 686-6565

Port of San Francisco
Director of Administration
Ferry Bldg., Room 3100
San Francisco, CA 94111
Phone: (415) 274-0400
Fax: (415) 274-0412

Port of Stockton
Director of Finance
P.O. Box 2089
Stockton, CA 95201
Phone: (209) 946-0246
Fax: (209) 465-7244

Great Lakes & Saint Lawrence Seaway

Canada Ports Corporate Site
General Manager
99 Metcalfe Street
Ottawa, ON K1A 0N6
CANADA
Phone: (613) 957-6762
Fax: (613) 996-9393

Montreal Port Corporation
President & CEO
Cite' du Harve
Wing No. 1
Montreal, QB H3C 3R5
CANADA
Phone: (415) 283-7042
Fax: (514) 283-7019

Quebec Port Corporation
President & CEO
P. O. Box 2268
Quebec City, QB G1K 7P7
CANADA
Phone: (418) 648-4956
Fax: (418) 648-4160

Sept-'Iles
General Manager
421 Arnaud Street
Sept-'Iles, QB G4R 3B3
CANADA
Phone: (418) 968-1231
Fax: (418) 962-4445

Cleveland
Director of Administration
101 Frieside Ave
Cleveland, OH 44114
USA
Phone: (216) 261-8004
Fax: (216) 241-8016

Detroit
Director of Finance & Administration
8109 Jefferson
Detroit, MI 48214
USA
Phone: (313) 331-3842
Fax: (331) 259-8961

Duluth (MN and WI)
Chief Financial Officer
Seaway Port Authority
P. O. Box 16877
Duluth, MN 55816
USA
Phone: (218) 727-8525
Fax: (218) 727-6888

Milwaukee
Port Director
2323 Lincoln Memorial Drive
Milwaukee, WI 53207
USA
Phone: (414) 286-3511
Fax: (414) 286-8506

Toledo
Seaport Director
N.E. Maritime Plaza
7th Floor
Toledo, OH 43604
USA
Phone: (419)243-8251
Fax: (419) 243-1835

REFERENCE BOOKS AND PERIODICALS

For those readers interested in more in-depth discussions of a particular subject, the following reference books and periodicals can be consulted. Generally speaking, the textbooks listed below will contain more in-depth background and theory material. The magazines and other periodicals generally contain more current or up-to-date information. Most periodical publishers offer back issues of the periodicals plus an index of subjects printed in recent editions. Readers may wish to obtain an index from the publisher to determine if the subject of interest has been addressed in the periodical.

Books

Publication	Publisher	Phone/Fax	Web
Best's Insurance Reports	A.M. Best Company, Inc. Ambest Road Oldwick, New Jersey 08858	(908) 439-2200	www.ambest.com
Best's Key Rating Guide: Property/Casualty	A.M. Best Company, Inc. Ambest Road Oldwick, New Jersey 08858	(908) 439-2200	www.ambest.com
Commercial Auto Insurance	International Risk Management Institute, Inc. 12222 Merit Drive #1450 Dallas, Texas 75251-2276	(800) 827-4242 [Toll-Free] (972) 960-7693 [In Dallas] (972) 960-6037 [Fax]	www.irmi.com
Commercial Liability Insurance	International Risk Management Institute, Inc. 12222 Merit Drive #1450 Dallas, Texas 75251-2276	(800) 827-4242 [Toll-Free] (972) 960-7693 [In Dallas] (972) 960-6037 [Fax]	www.irmi.com
Commercial Liability Risk Management and Insurance; Volumes I and II, Malachi, Donaldson and Horn	American Institute for Property and Liability Underwriters PO Box 3016, 720 Providence Road Malvern, PA 19355-0716	(610) 644-2100 (610) 640-9576 [Fax]	www.cpcusociety.org
Commercial Property Insurance	International Risk Management Institute, Inc. 12222 Merit Drive #1450 Dallas, Texas 75251-2276	(800) 827-4242 [Toll-Free] (972) 960-7693 [In Dallas] (972) 960-6037 [Fax]	www.irmi.com
Commercial Property Risk Management and Insurance; Volumes I & II. Rodda, Trieschmann, Wiening and Hedges	American Institute for Property and Liability Underwriters PO Box 3016, 720 Providence Road Malvern, PA 19355-0716	(610) 644-2100 (610) 640-9576 [Fax]	www.cpcusociety.org
Contractual Risk Transfer	International Risk Management Institute, Inc. 12222 Merit Drive #1450 Dallas, Texas 75251-2276	(800) 827-4242 [Toll-Free] (972) 960-7693 [In Dallas] (972) 960-6037 [Fax]	www.irmi.com
Loss Control Management; Bird and Loftus (OUT OF PRINT)	Institute Press (A Division of International Loss Control Institute) Highway 78 Loganville, Georgia 30249		

Publication	Publisher	Phone/Fax	Web
National Report on Public Officials Liability (OUT OF PRINT)	The Wyatt Company 1990 K Street, NW Washington, D.C. 20006		
Pollution Coverage Issues	International Risk Management Institute, Inc. 12222 Merit Drive #1450 Dallas, Texas 75251-2276	(800) 827-4242 [Toll-Free] (972) 960-7693 [In Dallas] (972) 960-6037 [Fax]	www.irmi.com
Public Sector Risk Management Manual	Public Risk Management Association 1815 North Ft. Myer Drive, Suite 1020 Arlington, VA 22209	703-528-7701 703-528-7966 [Fax]	www.primacentral.org
Risk Financing ®	International Risk Management Institute, Inc. 12222 Merit Drive #1450 Dallas, Texas 75251-2276	(800) 827-4242 [Toll-Free] (972) 960-7693 [In Dallas] (972) 960-6037 [Fax]	www.irmi.com
Risk Management and Insurance; Williams and Heims (OUT OF PRINT)	McGraw-Hill Book Company New York, New York		
Risk Management: Concepts and Applications; Mehr and Hedges (OUT OF PRINT)	Richard D. Irwin, Inc. Homewood, Illinois		
Techniques of Safety Management; Peterson	McGraw-Hill Book Company New York, New York		
The Umbrella Book	Griffin Communications, Inc. 1420 Bristol Street North, Suite 220 Newport Beach, CA 92660	(949) 752-1058 (949) 955-1929 [Fax]	www.griffincom.com
Accident Prevention Manual for Business and Industry: Engineering and Technology Volume And Administration and Program Volume	National Safety Council IFASCA, Ill.		

Periodicals

Publication	Publisher	Phone	Web
Best's Review-Property and Casualty Editions	A.M. Best Company, Inc. Ambest Road Oldwick, New Jersey 08858	(908) 439-2200	www.ambest.com
Business Insurance	Crain Communications, Inc. 740 N. Rush Street Chicago, Illinois 60611	(888) 446-1422 (312) 280-3174 [Fax]	www.businessinsuran ce.com
CPCU Journal	Chartered Property Casualty Underwriters Society PO Box 3009, 720 Providence Road Malvern, PA 19355-0709	1-800-932-CPCU (2728) (610) 251-2775 [Fax]	www.cpcusociety.org
Disaster Recovery Journal	Disaster Recovery Journal P.O. Box 510110 St. Louis, MO 63151	(314) 894-0276 (314) 894-7474 [Fax]	www.drj.com
FC&S Bulletins	The National Underwriter Company 505 Gest Street Cincinnati, OH 45203	(800) 544-0620 (800) 874-1916 [Fax]	www.nuco.com
GRMR: Governmental Risk Management Reports	Towers Perrin Risk Management Publications Towers Perrin Financial Centre, Suite 600 695 East Main Street Stamford, Connecticut 06901	(203) 326-5468 (203) 326-5498 [Fax]	www.tillinghast.com
The John Liner Letter	Standard Publishing Corporation 155 Federal Street Boston, MA 02110	(800) 682-5759 (617) 457-0600 (617) 457-0608 [Fax]	
Practical Risk Management	ARM Tech P.O. Box 1439 Alameda, CA 94501-0155	(510) 865-3628 (510) 253-9645 [Fax]	www.pracrisk.com
Public Risk	Public Risk Management Association 1815 North Ft. Myer Drive, Suite 1020 Arlington, VA 22209	703-528-7701 703-528-7966 [Fax]	www.primacentral.or g
Risk Management	Risk Management Society Publishing, Inc. 655 Third Avenue New York, NY 10017	(212) 286-9364 (212) 922-0716 [Fax]	www.rims.org/rmma g/index.html

Specialized Reference Materials

Emergency Management

Publication	Publisher	Phone	Web
The Emergency Program Manager HS-1 (home study course)	Federal Emergency Management Agency HQ FEMA Federal Center Plaza 500 C St., SW, Room 512 Washington, DC 20472	(202) 646-3692	
NFPA 1600, Recommended Practice for Disaster Management	National Fire Protection Association ((NFPA) Standard No. 1600 – Disaster Management 1 Batterymarch Park Quincy, MA 02269	(800) 344-3555	
Emergency Management Guide for Business and Industry (FEMA 141)	Federal Emergency Management Agency HQ FEMA Federal Center Plaza 500 C St., SW, Room 512 Washington, DC 20472	(202) 646-3692	

Port Security

Publication	Publisher	Phone	Web
Port Security: A National Planning Guide	U.S. Department of Transportation (Maritime Administration) 400 Seventh St., SW MAR-830 Washington, DC 20590	(202) 366-4357 (202) 366-6988 [Fax]	
Port Security: Security Survey & Risk Assessment [anticipated publication date: January 1999].	U.S. Department of Transportation (Maritime Administration) 400 Seventh St., SW MAR-830 Washington, DC 20590	(202) 366-4357 (202) 366-6988 [Fax]	
Risk Management in the U.S. Coast Guard, Proceedings of the Marine Safety Council, U.S. Coast Guard, Vol. 53, No. 2, April-June 1996.			

Publication	Publisher	Phone	Web
Assessing Maritime Security Needs Through Systematic Risk Analysis, McHenry, Deshayes, Heggers, & Grenier. International Perspectives on Maritime Security, 1996; T. Fitzhugh, Editor.			
Code for Safety to Life from Fire on Merchant Vessels (NFPA #301).			
Fire Protection for Pleasure and Commercial Motor Craft (NFPA # 302).			
Fire Protection Standard for Marinas and Boatyards (NFPA # 303).			
Petroleum Wharves (NFPA # 304L).			
Standard for the Control of Gas Hazards on Vessels (NFPA # 306).			
Standard for the Construction and Fire Protection of Marine Terminals, Piers, and Wharves (NFPA # 307).			
Standard for Fire Protection of Vessels during Construction, Repair, and Lay-up (NFPA # 312).			
Standard Procedures for Cleaning or Safeguarding Small Tanks and Containers Without Entry (NFPA # 327).			
Standard on Industrial Fire Brigades (NFPA # 600).			
Standard for Security Services in Fire Loss Prevention (NFPA # 601).			
Guide for Land-Based Firefighters who Respond to Marine Vessel Fires (NFPA # 1405).			
Recommended Practice for Disaster Management (NFPA # 1600).			
Marine Fire Fighting Vessels (NFPA # 1925).			

Publication	Publisher	Phone	Web
Standard for the Identification of the Hazards of Materials for Emergency Response (NFPA # 704).			

Miscellaneous

Publication	Publisher	Phone	Web
The Special Event Risk Management Manual, Vols. 1 & 2.	Alexander Berlonghi P.O. Box 3454 Dana Point, CA 9276		
Business Resumption Planning, Devlin, Emerson, & Wrobel.	Auerbach Ira Group 935 Hudson St. New York, NY 10014		

Other Organizations

1. American Association of Port Authorities (AAPA)
   1010 Duke St.
   Alexandria, VA 22314-3512
   Phone: (703) 684-5700
   Fax: (703) 684-6321
   E-mail: AAPA@ix.netcom.com
   Web page: www.AAPA-ports.org

   Hours:

   Mission: AAPA is the alliance of ports of the Western Hemisphere. The Association promotes the common interests of the port community, and provides leadership on trade, transportation, environmental, and other issues related to port development and operations. AAPA furthers public understanding of the essential role fulfilled by ports within the global transportation system. The Association serves as a resource to help members accomplish their professional responsibilities.

   Goals: Environmentally responsible port development and operations
   Research and analysis
   Professionalism
   Public awareness
   Representation and advocacy

EXHIBIT A: BEST'S RATINGS, FINANCIAL PERFORMANCE RATINGS, AND FINANCIAL SIZE CATEGORIES

Best's Ratings

Secure Best's Rating	
A++ and A+	Superior
A and A-	Excellent
B++ and B+	Very Good
Vulnerable Best's Ratings	
B and B-	Fair
C++ and C+	Marginal
C and C-	Weak
D	Poor

Best's Financial Performance Ratings (FPR)

Secure FPR Ratings	
FPR 9	Very Strong
FPR 8 and 7	Strong
FPR 6 and 5	Good
Vulnerable FPR Ratings	
FPR 4	Fair
FPR 3	Marginal
FPR 2	Weak
FPR 1	Poor

Financial Size Category (FSC)

Rating	Capital+Surplus+Reserves ($Millions)
FSC 1	less than 1
FSC II	1 to 2
FSC III	2 to 5
FSC IV	5 to 10
FSC V	10 to 25
FSC VI	25 to 50
FSC VII	50 to 100
FSC VIII	100 to 250
FSC IX	250 to 500
FSC X	500 to 750
FSC XI	750 to 1,000
FSC XII	1,000 to 1,250
FSC XIII	1,250 to 1,500
FSC XIV	1,500 to 2,000
FSC XV	greater than 2,000

EXHIBIT B: RISK MANAGEMENT ANNUAL REPORT

Sample Outline*

I Introduction and Summary

II Insurance and Risk Funding

A. Summary of Coverages and Premiums

B. Summary of Risk Financing Program

1. Gross costs
2. Net costs
3. Maximum / Minimum Possibilities
4. Additional Options

III Crisis Management

IV Losses and Recoveries

V Loss Control Activities

VI Achievements of Special Interest

*This sample format is intended only as a general guide which can be modified to accommodate the unique nature of your organization.

EXHIBIT C: EXPECTED LOSS CALCULATION – PAYROLL BASIS

ABC Corporation
Workers' Compensation

Period	Type	Incurred Losses	Development Factor	Adjust to Current Law	Ultimate Losses	Ultimate Combined Losses
95-96	Medical	47,942	X 1.031*	X 1.000	49,428	
	Indemnity	480,213	X 1.531	X 1.002	736,677	786,105
94-95	Medical	74,319	X 1.074*	X 1.000	79,818	
	Indemnity	717,114	X 1.259	X 1.005	907,360	987,178
93-94	Medical	44,077	X 1.132*	X 1.000	49,895	
	Indemnity	552,644	X 1.183	X 0.990	647,240	697,135
92-93	Medical	26,581	X 1.166*	X 1.000	30,994	
	Indemnity	538,901	X 1.148	X 1.017	629,176	660,170
91-92	Medical	25,809	X 1.229*	X 1.000	31,719	
	Indemnity	628,581	X 1.127	X 1.074	760,833	792,552
90-91	Medical	24,903	X 1.299*	X 1.000	32,349	
	Indemnity	646,325	X 1.113	X 1.212	871,864	904,213

*Paid medical claims adjusted for inflation only.

EXHIBIT D: EXPECTED LOSS CALCULATION – PAYROLL BASIS SUMMARY

ABC Corporation
Workers' Compensation

Period	Payroll	Inflation Factor	Adjusted Payroll	Combined Ultimate Losses	Loss Rate Per $1,000 Payroll
95-96	29,401,134	X 1.029	30,253,767	786,105	25.984
94-95	25,664,265	X 1.057	27,127,128	987,178	36.391
93-94	23,231,901	X 1.081	25,113,685	697,135	27.759
92-93	20,980,234	X 1.103	23,141,198	660,170	28.528
91-92	21,454,615	X 1.128	24,200,805	792,552	32.749
90-91	22,942,315	X 1.165	26,727,796	904,213	33.830

Best	25.984
Worst	36.391
Average	30.873
Wt. Average	30.716

1997 Payroll Estimate $32,000,000

	Estimated Losses
Best	831,488
Worst	1,164,512
Average	987,936
Wt. Average	982,912

EXHIBIT E: LOSS DEVELOPMENT FACTORS (AS OF 1997)

Liability, Auto, and Workers' Compensation
Incurred to Ultimate

Age in Months	General Liability Including Products	Auto	Workers' Compensation
12	N/A	N/A	1.612
18	3.966	1.154	1.437
24	3.169	1.114	1.261
30	2.625	1.064	1.216
36	2.082	1.045	1.171
42	1.841	1.027	1.151
48	1.600	1.019	1.131
54	1.495	1.012	1.120
60	1.390	1.009	1.109
66	1.340	1.006	1.102
72	1.290	1.005	1.095
78	1.259	1.004	1.089
84	1.228	1.000	1.083
90	1.206	1.000	1.079
96	1.183	1.000	1.075
108	1.160	1.000	1.050
120	1.136	1.000	N/A
132	1.114	1.000	N/A

EXHIBIT F: CUMULATIVE PAYOUT PROFILES (AS OF 1997)

Year	General Liability Including Products	Auto Liability	Workers' Compensation
1	8%	32%	22%
2	18%	63%	47%
3	30%	79%	62%
4	42%	89%	71%
5	54%	94%	77%
6	63%	96%	81%
7	70%	97%	84%
8	75%	98%	86%
9	79%	98%	87%
10	82%	99%	89%
> 10	100%	100%	100%

EXHIBIT "G"

COMMERCIAL AUTO COVERAGE PART
BUSINESS AUTO DECLARATIONS

CA 00 03 12 93

Renewal of Number*
Policy No.
ITEM ONE

☐ The Declarations include a second part designated "Part 2."

Named Insured and Mailing Address (No., Street, Town or City, County, State, Zip Code)#

Policy Period*: From to at 12:01 A.M. Standard Time at your mailing address shown above.

Form of Business: ☐ Individual ☐ Partnership ☐ Corporation ☐ Other ____________

IN RETURN FOR THE PAYMENT OF THE PREMIUM, AND SUBJECT TO ALL THE TERMS OF THIS POLICY, WE AGREE WITH YOU TO PROVIDE THE INSURANCE AS STATED IN THIS POLICY.

ITEM TWO – SCHEDULE OF COVERAGES AND COVERED AUTOS

This policy provides only those coverages where a charge is shown in the premium column below. Each of these coverages will apply only to those "autos" shown as covered "autos." "Autos" are shown as covered "autos" for a particular coverage by the entry of one or more of the symbols from the COVERED AUTOS Section of the Business Auto Coverage Form next to the name of the coverage.

COVERAGES	COVERED AUTOS (Entry of one or more of the symbols from the COVERED AUTOS Section of the Business Auto Coverage Form shows which autos are covered autos)	LIMIT THE MOST WE WILL PAY FOR ANY ONE ACCIDENT OR LOSS	PREMIUM
LIABILITY		$	$
PERSONAL INJURY PROTECTION (P.I.P.)**		SEPARATELY STATED IN EACH P.I.P. END. MINUS $ DED.	$
ADDED P.I.P. (or equivalent added No-fault cov.)		SEPARATELY STATED IN EACH ADDED P.I.P. ENDORSEMENT	$
PROPERTY PROTECTION INS. (P.P.I.) (Michigan only)		SEPARATELY STATED IN THE P.P.I. ENDORSEMENT MINUS $ Deductible FOR EACH ACCIDENT	$
AUTO MEDICAL PAYMENTS		$	$
UNINSURED MOTORISTS (UM)		$	$
UNDERINSURED MOTORISTS (when not included in UM Cov.)		$	$
PHYSICAL DAMAGE: COMPREHENSIVE COVERAGE		ACTUAL CASH VALUE OR COST OF REPAIR, WHICHEVER IS LESS MINUS $ Ded. FOR EACH COVERED AUTO, BUT NO DED. APPLIES TO LOSS CAUSED BY FIRE OR LIGHTNING***	$
PHYSICAL DAMAGE: SPECIFIED CAUSES OF LOSS COVERAGE		$25 Deductible FOR EACH COVERED AUTO FOR LOSS CAUSED BY MISCHIEF OR VANDALISM***	$
PHYSICAL DAMAGE: COLLISION COVERAGE		$ Deductible FOR EACH COVERED AUTO***	$
PHYSICAL DAMAGE: TOWING AND LABOR (Not Available in California)		$ for each disablement of a private passenger auto	$
FORMS AND ENDORSEMENTS APPLYING TO THIS COVERAGE PART AND MADE PART OF THIS POLICY AT TIME OF ISSUE*:			
		PREMIUM FOR ENDORSEMENTS	$
		ESTIMATED TOTAL PREMIUM	$

**(or equivalent No-fault cov.) ***See ITEM FOUR for hired or borrowed "autos."

ITEM THREE – SCHEDULE OF COVERED AUTOS YOU OWN

Covered Auto No.	DESCRIPTION: Year Model; Trade Name; Body Type Serial Number (S), Vehicle Identification Number (VIN)	PURCHASED: Original Cost New	PURCHASED: Actual Cost &	PURCHASED: NEW (N) USED (U)	TERRITORY: Town & State Where the Covered Auto will be principally garaged
1					
2					
3					

Covered Auto No.	CLASSIFICATION: Radius of Operation (in Miles)	Business use s=service r=retail c=comm'l	Size GVW, GCW or Vehicle Seating Capacity	Age Group	Primary Rating Factor: Liab.	Primary Rating Factor: Phy. Damage	Secondary Rating Factor	Code	EXCEPT for towing all physical damage loss is payable to you and the loss payee named below as interests may appear at the time of the loss
1									
2									
3									

Countersigned:# By____________________________# Authorized Representative

*Entry optional if shown in Common Policy Declarations.
#Forms and Endorsements applicable to this Coverage Part omitted if shown elsewhere in the policy.

THESE DECLARATIONS AND THE COMMON POLICY DECLARATIONS, IF APPLICABLE, TOGETHER WITH THE COMMON POLICY CONDITIONS, COVERAGE FORM(S) AND FORMS AND ENDORSEMENTS, IF ANY, ISSUED TO FORM A PART THEREOF, COMPLETE THE ABOVE NUMBERED POLICY.

Page 1 of 2

Exhibit "G"

BUSINESS AUTO COVERAGE FORM

Various provisions in this policy restrict coverage. Read the entire policy carefully to determine rights, duties and what is and is not covered.

Throughout this policy the words "you" and "your" refer to the Named Insured shown in the Declarations. The words "we", "us" and "our" refer to the Company providing this insurance.

Other words and phrases that appear in quotation marks have special meaning. Refer to **SECTION V -DEFINITIONS.**

SECTION I - COVERED AUTOS

ITEM TWO of the Declarations shows the "autos" that are covered "autos" for each of your coverages. The following numerical symbols describe the "autos" that may be covered "autos". The symbols entered next to a cover-age on the Declarations designate the only "autos" that are covered "autos".

A. DESCRIPTION OF COVERED AUTO DESIGNATION SYMBOLS

SYMBOL DESCRIPTION

1. = ANY "AUTO".

2. = OWNED "AUTOS" ONLY. Only those "autos" you own (and for Liability Cover-age any "trailers" you don't own while attached to power units you own). This includes those "autos" you acquire ownership of after the policy begins.

3. = OWNED PRIVATE PASSENGER "AUTOS" ONLY. Only the private passenger "autos" you own. This includes those private passenger "autos" you acquire ownership of after the policy begins.

4. = OWNED "AUTOS" OTHER THAN PRIVATE PASSENGER "AUTOS" ONLY. Only those "autos" you won that are not of the private passenger type (and for Liability Coverage any "trailers" you don't own while attached to power units you own). This includes those "autos" not of the private passenger type you acquire ownership of after the policy begins.

5. = OWNED "AUTOS" SUBJECT TO NO-FAULT. Only those "autos" you own that are required to have No-Fault benefits in the state where they are licensed or principally garaged. This includes those "autos" you acquire ownership of after the policy begins provided they are required to have No-Fault benefits in the state where they are licensed or principally garaged.

6. = OWNED "AUTOS" SUBJECT TO A COMPULSORY UNINSURED MOTORISTS LAW. Only those "autos" you own that because of the law in the state where they are licensed or principally garaged are required to have and cannot reject Uninsured Motorists Coverage. This includes those "autos" you acquire ownership of after the policy begins provided they are subject to the same state uninsured motorists requirement.

7. = SPECIFICALLY DESCRIBED "AUTOS". Only those "autos" described in ITEM THREE of the Declarations for which a premium charge is shown (and for Liability Coverage any "trailers" you don't own while attached to any power unit described in ITEM THREE).

8. = HIRED "AUTOS" ONLY. Only those "autos" you lease, hire, rent or borrow. This does not include any "auto" you lease, hire, rent or borrow from any of your employees or partners or members of their households.

9. = NON-OWNED "AUTOS" ONLY. Only those "autos" you do not own, lease, hire, rent or borrow that are used in connection with your business. This includes "autos" owned by your employees or partners or members of their households but only while used in your business or your personal affairs.

B. OWNED AUTOS YOU ACQUIRE AFTER THE POLICY BEGINS

1. If symbols 1, 2, 3, 4, 5 or 6 are entered next to a coverage in ITEM TWO of the Declarations, then you have coverage for "autos" that you acquire of the type described for the remainder of the policy period.

2. But, if symbol 7 is entered next to a coverage in ITEM TWO of the Declarations, an "auto" you acquire will be a covered "auto" for the coverage only if:

   a) We already cover all "autos" that you own for that coverage of it replaces an "auto" you previously owned that had that coverage; and

   b) You tell us within 30 days after you acquire it that you want us to cover it for that coverage.

EXHIBIT H: SAMPLE AUTO LIABILITY – ADDITIONAL INSURED ENDORSEMENT

City of Los Angeles

Los Angeles Harbor Department – Risk Management Section

AUTO LIABILITY – ADDITIONAL INSURED ENDORSEMENT

In consideration of the premium charged and notwithstanding any inconsistent statement in the policy to which this endorsement is attached or any endorsement now or hereafter attached thereto, it is agreed as follows:

1. **ADDITIONAL INSURED**. The City of Los Angeles Harbor Department, its officers, agents and employees are included as additional insureds with regard to liability and defense of claims arising from the operations and uses performed by or on behalf of the named insured regardless of whether liability is attributable to the named insured or a combination of the named insured and the additional insured.
2. **CONTRIBUTION NOT REQUIRED**. Any other insurance maintained by the City of Los Angeles Harbor Department shall be excess of this insurance and shall not contribute with it.
3. **SEVERABILITY OF INTEREST**. This insurance applies separately to each insured against whom claim is made or suit is brought except with respect to the company's limits of liability. The inclusion of any person or organization as an insured shall not affect any right which such person or organization would have as a claimant if not so included.
4. **CANCELLATION NOTICE**. With respect to the interest of the additional insured, the insurance shall not be cancelled, changed in coverage, reduced in limits or non-renewed except after thirty (30) days prior written notice by certified mail return receipt requested has been given to both the City Attorney of Los Angeles and the Board of Harbor Commissioners addressed as follows:

City Attorney Harbor Division 425 South Palos Verdes Street San Pedro, Ca 90731	Board of Harbor Commissioners 425 South Palos Verdes Street San Pedro, Ca 90731 Attn: Risk Manager

5. **APPLICABILITY**. This insurance pertains to the operations and/or tenancy of the named insured under all written agreements and permits in force with the City of Los Angeles Harbor Department unless checked below in which case only the following specific agreements and permits with the City of Los Angeles Harbor Department are covered:

☐ Agreement/Permit
Number(s)________________________________

Except as stated above, nothing herein shall be held to waive, alter or extend any of the limits, conditions, agreements or exclusions of the policy to which this endorsement is attached.

I __________________(print/type name), warrant that I have authority to bind the below-listed insurance company and by my signature hereon do so bind this company. Signature:________________ Authorized Representative (ORIGINAL SIGNATURE required on copy furnished to the Board of Harbor Commissioners.) Title:________________ Organization:________________ Address:________________ ________________ Telephone: (_____)________________	Report claims pursuant to this insurance to: Name:________________ Address:________________ City________State_____Zip______ Telephone (_____)________________ Includes: (check as applicable) ☐ Owned automobiles ☐ Hired automobiles ☐ Non-owned automobiles ☐ __________
Type of Coverage Limits of Liability	Policy Period From ☐ Deductible $________ ☐ Self-insured Retention $________ To For __________ (Coverage) ☐ Per Claim ☐ Per Occurrence

Other Conditions:

Named Insured and Address			
Insurance Company	Policy Number	Endorsement Number	Effective Date of Endorsement

Form 10 (10/96)

EXHIBIT I: MARINE TERMINAL DEFINITION DISCUSSION

To underscore the complexity of the legal system, a good example of the interplay between legal requirements that can lead to uncertainty to everyday activity is the legal treatment of a marine terminal. The law deals with the terminal at various times, and, occasionally, at the same time, as different legal entities. The uncertainty created by different liability concepts can be viewed as an administrative obstacle to implementing a risk management plan. For example, a marine terminal can be viewed as one of eight different legal entities, depending upon the facts:

1. A Surface Transportation Board (STB)[1] common carrier (assuming the terminal performs functions that subject it to the jurisdiction of the STB, such as a freight forwarder under §13102(8)[2] of the Interstate Transportation Act,[3] in which case the terminal may obtain the protection of the inland contract of carriage even though the inland bill of lading contains no Himalaya clause);[4]

---

[1] The Interstate Commerce Commission (ICC) was replaced by the STB by the ICC Termination Act of 1995 (Pub. L. 104-88, 109 Stat. 803), effective January 1, 1996. Under 49 U.S.C. §§13501, 13521, and 13701 jurisdiction over water carriers operating in the noncontiguous domestic trade was transferred to the STB. The STB is part of the U.S. Department of Transportation.

[2] To be a freight forwarder the terminal must hold itself out to provide transportation for compensation and, in the ordinary course of business, (1) provide for assembling and consolidating or distributing of shipments; (2) assume responsibility for the transportation; and (3) use an ICC common carrier for part of the transportation. This is a recodification of former 49 U.S.C. §10102(9).

[3] 49 U.S.C. §§10101-16106, which is a recodification of former 49 U.S.C. §§10101-11901 (the Interstate Commerce Act of 1887). Of relevance here is Part B - Motor Carriers, Water Carriers, Brokers, and Freight Forwarders, 49 U.S.C. §§13101-14914.

[4] For example, terminals may stuff containers, sort cargo, and transport containers within the confines of their facilities, but to bring themselves within the jurisdiction of the STB, a terminal probably would have to provide transportation of the cargo using a STB common carrier. Relying upon ICC cases, one way to do this would be to establish a wholly owned subsidiary to conduct the actual transportation of cargo as a STB common carrier, and thereby fit within the protection of inland bills of lading (see Puerto Rico Maritime Shipping Auth. v. Valley Freight Sys., 856 F.2d 546 (3rd Cir. 1988).

In another setting, being associated with railroad terminal services can subject a terminal to STB jurisdiction. Again, looking to ICC cases, this is because of the public policy to encourage a national transportation policy, rather than partial state regulation, and thus grants STB jurisdiction over **intrastate** operations of **interstate** railroad carriers, Interstate Commerce Commission v. Texas, 479 U.S. 450, 452, 455-461 (1987). The Texas case involved a suit by a railroad that provided intrastate carriage of containers or trailers on flatcars. The railroad argued that under the provisions of the Staggers Rail Act of 1980, 49 U.S.C. § 10505(b) (1982), and ICC regulations issued thereunder, the trucking portion of a continuous multimodal carriage was exempt from state regulation. In that case, although intrastate transportation by motor carriers generally is not subject to ICC regulation, railroads are not motor carriers even during the truck portion of a multimodal movement. Further, although the Texas case involved an intrastate shipment, the shipments were held to fall within the purview of ICC authority because the railroad was ultimately involved in interstate commerce. This same reasoning should apply to the STB regime.

Texas followed Union Stock Yard Co. v. United States, 308 U.S. 213, 216 (1939), where the Supreme Court held that a terminal engaged solely in the loading and unloading of livestock at stockyards was a common carrier subject to the Interstate Commerce Act pursuant to 49 U.S.C. §§10102 and 10105 (since recodified at 49 U.S.C. §13102). To avoid ICC jurisdiction the Union Stock Yard leased in perpetuity to an unrelated company all its railroad facilities except the tracks and chutes used in loading and unloading livestock. In a proceeding to remove its tariff filed with the ICC, Union Stock Yard argued that because it divested itself of all control and operation of the railroad, and held itself out to the public only as a terminal, it was exempt from ICC regulation. The Supreme Court reasoned that under the jurisdictional provisions and the definitions contained in the Interstate Commerce Act, the terminal was a "carrier engaged in the transportation of property wholly by a railroad." Again, these legal principles should apply to the STB.

Finally, a terminal that serves various rail carriers has been held to be a common carrier subject to ICC regulation because it engages in "a public or common calling," United States v. Brooklyn E. Dist. Terminal, 249 U.S. 296 (1919). Since the STB still applies the same statutory definition of a common carrier, this should continue to be good law.

2. An agent for a STB common carrier (in which case the terminal has less protection);[5]
3. A warehouse (where, unless the element of storage is merely incident to a maritime contract, the terminal is subject to State statutory or Common Law or Article 7 of the Uniform Commercial Code (UCC), and is liable without limitation for loss of the goods (UCC §7-204);[6]
4. A Common Law bailee (where any liability limitation must be contractually agreed upon between the original bailee and bailor);
5. An agent of an ocean carrier (where the agent will be "protected" by any liability limitation which protects the carrier, most likely a Himalayan clause); the issue here usually concerns delivery terms;[7]
6. An agent of a cargo shipper (where the agent will be bound by any liability limitation provisions which the shipper has afforded to the carrier, most likely a Himalayan clause);
7. An agent of a cargo consignee (where the duties as to receipt of the goods will be determined by the terms negotiated by the consignee's principal); and

---

[5] If a terminal is found to act as an agent for a STB common carrier but it itself not considered a STB common carrier, the terminal will not be protected by a Himalaya clause because the inland bill of lading probably will have no Himalaya clause. The terminal may very well be relegated to the status of a Common Law bailee. In that case unless the terminal can persuade a court to apply the Lerakoli theory of sub-bailee rather than the Herd theory of limiting the contract terms to "intended beneficiaries" and not extending the carrier's protection to the carrier's agents. Thus, unless the terminal has obtained an indemnity agreement from its principal, the terminal would find itself defenseless and liable without limitation. See Stein Hall & Co. v. S.S. CONCORDIA VIKING, 494 F.2d 287 (2d Cir. 1974); David Crystal, Inc. v. The Cunard S.S. Co., 339 F.2d 295 (2d Cir. 1964), cert. denied, 380 U.S. 976 (1965).

[6] However, if the terminal's activities were incident to the maritime contract of carriage, the UCC will not apply and the terminal will be accorded the same law that applies to all other participants in the contract of carriage (i.e., limitation of liability. In Moore-McCormack Lines v. International Terminal Operating Co., 619 F. Supp. 1406, 1409 (S.D.N.Y. 1985) the Court set forth the standards to demonstrate that a terminal was not acting solely as a warehouse and its activities were "incident to the maritime contract of carriage" in that they were functions traditionally performed by or for an ocean carrier of goods -

> To supply clerical personnel to record delivery and receipt of cargo; to sort and stack cargo; to make repairs to cooperage, rebag goods, etc.; to receive and tier outbound cargo; to break down cargo according to lot designations; to load and unload trucks and harborcraft; and to perform cleaning and general housekeeping on the piers.

[7] Delivery issues stem from involvement of negotiable bills of lading as opposed to non-negotiable ones. If the cargo was carried pursuant to a negotiable bill of lading, the cargo cannot be delivered by the terminal until the holder of a negotiable bill of lading has surrendered it, usually to the ocean carrier. The basic rule is that the terminal should not release the cargo unless and until the ocean carrier has given permission to do so. Failure to observe this crucial step could force the ocean carrier to pay the value of the cargo plus damages to the actual holder of a negotiable bill of lading, in accordance with the Pomerene Bills of Lading Act, 49 App. U.S.C. §§ 89-91. In violating this rule the terminal probably would be held to have breached its implied warranty of workmanlike service to the ocean carrier and could very likely be required to pay the ocean carrier for the damages it was forced to pay plus the ocean carrier's attorneys fees and costs, David Crystal, Inc. v. Cunard S.S. Co., 339 F.2d 295 (2d Cir. 1965), cert. denied, 380 U.S. 976 (1965) and Morse Electro Prod. Corp. v. S.S. GREAT PEACE, 437 F. Supp. 474 (D.N.J. 1977).

On the other hand, if the cargo is shipped under a straight, or non-negotiable, bill of lading, and if United States law governs the shipment, the ocean carrier may only require the terminal to identify the consignee named on the bill of lading and obtain a receipt from the consignee. The terminal probably will want strict instructions from its principals in this regard.

8. An ocean carrier (*i.e.*, the terminal usually receives the protection of the ocean carrier's bill of lading because of the inclusion of a "Himalaya clause,"[8] which specifically extends its protection to the terminal[9] -- United States law is unclear[10], but the weight of authority appears to back the Himalaya clause approach[11]).

---

[8] The term "Himalaya clause" stems from the court case Adler v. Dickson (THE HIMALAYA), 1 Q.B. 158, 183, 184 (1955), in 2A Benedict on Admiralty §169 (1995). The HIMALAYA involved a personal injury suit brought by Mrs. Adler, a widow, shopkeeper, and first-class passenger on the S.S. HIMALAYA. When she had returned to the vessel from a shore visit in Trieste, Italy, and was climbing the vessel's gangway, the gangway suddenly moved. The sudden motion threw Mrs. Adler sixteen feet from the gangway to the wharf. Mrs. Adler was prevented from suing the vessel or the vessel's owner by the almost unconscionable language in her passenger ticket. Instead, she sued the vessel's master and boatswain. The vessel owner argued that the defenses in its passenger ticket should be extended to its servants, the master and boatswain.

In what appears to be dicta, the Court maintained that all defenses in the contract of carriage would extend to all participants in its performance: "the master, the stevedores and any other persons who may be engaged in carrying out the services provided for by the contract." In other words, the participants are protected by the contract even though they are not parties to it; they could rely on the contract even though they might be guilty of negligence and are sued in tort. Although the contract protections were not made expressly for the benefit of stevedores and other participants in the contract, the Court suggested the protections were extended to them by "necessary implication."

An example of a simple Himalaya clause is:

> All defenses of the carrier shall inure also to the benefit of the carrier's agents, servants and employees and of any independent contractors performing any of the carrier's obligations under its contract of carriage or acting as bailee.

Taken from Secrest Mach. Corp. v. S.S. TIBER, 450 F.2d 285, 286 (5th Cir. 1971).

[9] The rule is best stated as follows: even though there was only one contract (*i.e.*, the contract evidenced by the bill of lading), the reason why the stevedores and others are protected is because they participated in the performance of it, and the exception or Himalaya clause was made for their benefit while they were performing that contract, even though the stevedores and others were not parties to the contract. So, while the clause was not made expressly for their benefit, it was to benefit them "by necessary implication," which has the legal effect of protecting them. Therefore, they have a sufficient interest in the contract, and specifically in the Himalaya clause, to entitle them to enforce it. Their interest lies in the fact that they participated in so far as the contract affected them and thus they can take those benefits of the contract which relate to their interest. It is therefore one of those "third party beneficiary" cases, which are by no means rare, where a third person is entitled to enforce a contract made between other parties but for the third party's benefit.

[10] Some earlier United States law follows the same rule - A.M. Collins & Co. v. Panama R.R., 197 F.2d 893, 1952 AMC 2054 (5th Cir.), *cert. denied*, 344 U.S. 875, 1952 AMC 2086 (1952). Likewise, the Second Circuit, in Lerakoli, Inc. v. Pan American World Airways, 783 F.2d 33, 36 (2d Cir. 1986), cert. denied, 479 U.S. 827 (1986), used a sub-bailee theory rather than upon a formalistic "Himalaya" extension of contractual protections to participants in the contract of carriage (it is established Common Law doctrine that a sub-bailee may take advantage of a liability limitation contractually agreed upon between the original bailee and bailor). Lerakoli involved the loss of diamonds by Pan American World Airways from registered mail carried for the United States Postal Service (USPS). Plaintiff's recourse against the USPS was limited by Article 44(3) of the United States Postal Union Convention to "40 francs ($15.76) per item," 27 U.S.T. 345, 396 (July 5, 1974). The plaintiff proceeded instead against Pan Am in an attempt to recover the entire value of the diamonds.

However, the Supreme Court of the United States specifically overruled the English approach in Robert C. Herd & Co. v. Krawill Machinery Corp., 359 U.S. 297, 305 (1959). In Herd, a stevedore, while attempting to load a nineteen-ton press onto a ship, dropped the press into the water. The bill of lading had been issued, and the stevedore attempted to take advantage of the $500 per package limitation. The District Court refused to extend the package limitation to the stevedore, and the Fourth Circuit affirmed, specifically declining to follow the Fifth Circuit's decision in A.M. Collins & Co. v. Panama Railroad, and the Supreme Court likewise affirmed.

[11] Generali v. D'Amico, 766 F.2d 485, 487 (11th Cir. 1985); Rupp v. International Terminal Operating Co., 479 F.2d 674, 676-78, (2d Cir. 1973); Secrest Mach. Corp. v. S.S. TIBER, 450 F.2d 285, 286 (5th Cir. 1971); EM Chem. v. S.S. SLOMAN NAJADE, 670 F. Supp. 87 (S.D.N.Y. 1987).

APPENDIX C: EXPOSURE IDENTIFICATION QUESTIONNAIRE

This exposure identification questionnaire is designed to aid a port in identifying and analyzing its exposure to loss. While an attempt has been made to make this questionnaire as comprehensive as possible, the variation in ports and their exposures make it impractical to cover all loss exposures.

The questionnaire should be viewed, therefore, as a starting point for the identification on exposures to loss. Other sources, such as those discussed in the *Guidebook* should be used to supplement this questionnaire to insure the complete identification of a port's exposure to loss.

If your port needs to address a specific area, please proceed to that section directly in this questionnaire to help you identify risk exposures.

GENERAL INFORMATION

1. Identity
   - Name of Port:
   - Address:
   - Telephone:
   - FAX:
   - E-mail:
   - Risk Manager or person responsible for insurance:
   - Owner of Port:
   - Operator of Port:

2. Port Structure
   A. Government Subsidiary
      - State:
      - Municipal/City/County:
      - Other:

   B. Private

   C. Management & Staff
      - Commissioners: Elected __________Appointed __________Term__________
      - Staff: Give overview of Port employees involved in operations, services, financial, legal, EDP, security, engineering, marketing, security, housekeeping, public relations accounting (for example, 6 operations employees, 1 financial, 1 staff attorney, etc.)

3. Port Information Required
   A. Top three commodities handled for export (most current fiscal year)

1. By dollar value:

	Commodity	Value
a.	________________	________________
b.	________________	________________
c.	________________	________________

2. By tons:

a.	________________	________________
b.	________________	________________
c.	________________	________________

B. Top three commodities handled for import (most current fiscal year)

1. By Dollar Value:

	Commodity	Value
a.	________________	________________
b.	________________	________________
c.	________________	________________

2. By tons:

	Commodity	Value
a.	________________	________________
b.	________________	________________
c.	________________	________________

C. Passenger/Cruise Lines

1. Number of based ships (annual)
2. Number of seasonal ships
3. Number of passengers (annual)

D. Marinas

1. Number of pleasure boat slips
2. Number of commercial boat slips
3. Number of boats lifted by Port employees

4. Gallons of fuel sold (by Port employees)

E. Utilities generated by Port (in Port-owned/operated facilities)

1. Power (elec./gal. & KW)
2. Sewage (gallons)
3. Water purification (gallons)

F. List any/all products manufactured, assembled, processed or sold by Port (i.e. Port operations not that of tenant or leasee)

Payroll Revenues

1. ____________________
2. ____________________
3. ____________________

G. Does the Port perform any of the following activities? If yes, give annual payroll & income

	Payroll	Receipts
1. Stevedoring	______	______
2. Warehouse/terminal	______	______
3. Pilotage	______	______
4. Ship Repair	______	______
5. Dredging	______	______
6. Railroad	______	______
7. Tugs, fireboats, etc.	______	______
8. Security (Private Contractor)	______	______
9. Maintenance	______	______
10. Office/administrative	______	______
11. Operation of cargo handling equip.(incl. cranes)	______	______
12. Construction	______	______
13. Restaurants	______	______

	Payroll	Receipts
14. Public recreation	__________	__________
15. Marinas	__________	__________
16. Dry dock	__________	__________
17. Pile driving	__________	__________
18. Wharfage/Dockage	__________	__________
19. Office & Property Rental	__________	__________

H. Total annual operating revenue:

I. Total annual payroll:

J. Railroads
   1. Owned by Port - miles of track
   2. Operated by Port - miles of track
   3. Maintained by Port - miles of track
   4. Hold harmless agreements (attach copies)

K. Number of vehicles owned/leased
   1. Private Passenger
   2. Commercial

L. Describe planned expansion for next five years; provide master plan if appropriate

M. Physical description of Port. Provide marketing brochures or narrative to describe type of Port, facilities & services available, etc.

5. General Information/Description of Risk Funding Method(s)
   A. Conventional insurance program (limits of liability by policy)
   B. High self-insured retention and/or deductible with conventional program

      Describe:

   C. Captive

      Describe:

   D. Part of overall (parent) government - managed program

      Describe:

   E. Other

F. Most difficult portion of risk management program to manage, fund, insure:

G. Details of all losses in excess of $10,000 (including reserves)

6. Describe major service(s)/product(s):

____
____
____
____

☐ Do you have any permanent operations outside the U.S., Canada, or Puerto Rico?
☐ Yes ☐ No

Country	Nature of Operations
____________	______________________
____________	______________________
____________	______________________
____________	______________________

9. Professional Services

Type	Name	Firm	Address
CPA/Accountant	________	________	________
	________	________	________
	________	________	________
		Phone:	________
Attorney	________	________	________
	________	________	________
	________	________	________
		Phone:	________
________	________	________	________
	________	________	________
	________	________	________
		Phone:	________

10. Commissioners and officers
   a. Total number of commissioners: __________
   b. Number of outside commissioners: __________
   c. Total number of Port officers: __________
   d. Do bylaws allow indemnification of commissioners and officers? ☐ Yes ☐ No

11. a. Does the port encourage employees to join the board of directors of other profit or nonprofit entities? ☐ Yes ☐ No
   b. Has the port espoused a policy on whether or not it will indemnify its employees with respect to liability for serving on these boards? ☐ Yes ☐ No

c. Do you determine whether these entities purchase directors and officers liability insurance?
☐ Yes ☐ No

12. a. How would you describe your port's relationship with the:

		View/Perception			
i.	Local community	☐ Extremely good	☐ Good	☐ Fair	☐ Poor
ii.	Local press	☐ Extremely good	☐ Good	☐ Fair	☐ Poor
iii.	Local government	☐ Extremely good	☐ Good	☐ Fair	☐ Poor
iv.	Employees	☐ Extremely good	☐ Good	☐ Fair	☐ Poor

b. Has your port received any unfavorable press within the last 5 years?
☐ Yes ☐ No

c. Describe any unfavorable press: ____
____
____

13. a. Do you have an investment in any other operation or business (e.g., real estate)?
☐ Yes ☐ No

b. If yes, describe operations, type of interest, and amount of interest (percentage):
____

14. Indicate how long port has been under present management: ______________________

15. Indicate length of time at present location: ______________________________

Basic Insurance/Risk Management System and Procedures

1. a. Does port keep a running record of all liability insurance policies purchased in the past?
   ☐ Yes ☐ No
   b. How far back in time does the record of insurance companies, brokers, limits, etc. go?
   ____
   c. Does record include the following: ☐ Name of Agent
   ☐ Policy limits ☐ Policy number ☐ Insurance Company ☐ Policy Period

2. Does the port have a document storage policy/system for:

Type of Document	Retention Policy
Liability policies	____________ years
Premium audits	____________ years
Certificate of insurance (others)	____________ years
Leases	____________ years
Construction contracts	____________ years
Other contracts	____________ years
______________	____________ years
______________	____________ years

3. Does the port have a system for obtaining and maintaining currently valued loss information?
   ☐ Yes ☐ No

4. a. Are premium audits carefully examined? ☐ Yes ☐ No
   b. By whom? ____

5. Is information distributed to employees as to:
   a. The importance of reporting occurrences? ☐ Yes ☐ No
   b. How to report a loss occurrence/accident? ☐ Yes ☐ No
   c. What to do with suit papers? ☐ Yes ☐ No
   d. How to handle inquiries by the press after a disaster/occurrence? ☐ Yes ☐ No

6. Are all requests made of the agent/broker or insurer documented in writing?
   ☐ Yes ☐ No

7. Is the financial stability of the insurance companies checked? ☐ Yes ☐ No

8. a. Are *complete* copies of policies maintained? ☐ Yes ☐ No
   b. Is there a suspense/"tickler" system in place to assure timely renewals? ☐ Yes ☐ No
   c. Is there a system to monitor and review Certificates of Insurance? ☐ Yes ☐ No

9. a. Does the risk/insurance manager periodically visit the various locations/subsidiaries?
   ☐ Yes ☐ No
   b. How often? ____________

10. a. Are meetings ever held with claims adjusters? ☐ Yes ☐ No
    b. How often? ____________

c. Nature of meetings: ______________________________
____

11. a. Are claims audits ever performed? ☐ Yes ☐ No
b. How often? ______________
c. By whom? ______________

12. a. Is experience rating information reviewed annually? ☐ Yes ☐ No
b. By whom? ______________

13. a. Does management involve the risk/insurance manager in mergers/acquisitions?
☐ Always ☐ Occasionally ☐ Never
b. Explain nature of involvement: ______________________________
____
____

14. a. Indicate perceived degree of cooperation from management regarding notification of:

	High	Moderate	Low	None
Property acquisitions	☐	☐	☐	☐
Vehicle acquisitions	☐	☐	☐	☐
New products	☐	☐	☐	☐
New facilities	☐	☐	☐	☐
Strategic plans	☐	☐	☐	☐

b. Comments: ______________________________
____
____

15. a. Risk/insurance manager's responsibilities (check all that apply)

☐ Agent/broker selection
☐ Insurance company selection
☐ Property value establishment
☐ Property and liability insurance purchasing
☐ Group insurance (E.E. benefits) purchasing
☐ Group insurance administration
☐ Pension/retirement plan funding
☐ Determine/recommend retention levels
☐ Property claims management
☐ Liability claims management
☐ Workers compensation claims management
☐ Safety/loss control
☐ Quality assurance
☐ Others, list: ______________________________
____

b. Does risk manager have authority to do the above? ☐ Yes ☐ No

Comments: ______________________________
____
____

16. a. Is the insurance program of all subsidiaries/divisions, etc. consolidated?
☐ Yes ☐ No

b. Subsidiary attitude towards consolidated program? ______________________________
____
____
____

17. If #16 is no, why is the program not consolidated? ______________________________
____
____
____

18. Are the following costs allocated to subsidiaries or profit centers:

a. Premiums?	☐ Yes	☐ No
b. Deductibles?	☐ Yes	☐ No
c. Risk Management Department operating costs?	☐ Yes	☐ No

19. Briefly describe predominant risk financing arrangement (such as guaranteed cost, dividend, retention, retrospective rating, compensating balance, self-insurance, and self-insured retention) and rationale used in its selection.

a. Workers' Compensation: ______________________________
____
____
____
____

b. General Liability: ______________________________
____
____
____
____

c. Products Liability: ______________________________
____
____
____
____

d. Automobile Physical Damage: ______________________________
____
____
____
____

e. Automobile Liability ______________________________
____
____
____
____

f. Professional Liability ______________________

____

____

____

____

20. a. What is the limit of liability for the liability coverages you now carry? ______________________

____

b. Briefly explain rationale used in choosing this limit: ______________________

____

____

____

____

21. a. Is your general liability policy currently (or ever been) on a claims-made basis?

☐Yes ☐ No ☐ Unknown

b. Indicate current retroactive date: ______________________

c. Expiration date of your *last* "occurrence" policy: ______________________

d. Has the retroactive date ever been advanced (moved forward in time) or has a laser exclusion ever been attached since you first started buying claims-made CGL insurance? ☐ Yes ☐ No

e. If the retroactive date has been advanced or a laser exclusion has been attached, did you purchase the extended reporting period? ☐ Yes ☐ No

f. Comments/Notes: ______________________

____

____

____

g. If you purchased the extended reporting period (or one is otherwise applicable) in an expired claims-made policy:

i. Have you kept a copy of the policy(ies)? ☐ Yes ☐ No (Obtain a copy)

ii. Is there a limited duration as respects the extended reporting period?

☐ Yes, duration: __________ ☐ No ☐ Unknown

22. a. Is (are) your umbrella(s) currently (or have they ever been) on a claims-made basis?

☐ Yes ☐ No ☐ Unknown

b. For how many years have you been purchasing claims-made umbrellas? __________ years

c. Have you ever had a retroactive date advanced, replaced a claims-made layer with an occurrence layer, or had a laser exclusion attached to a renewal policy?

☐ Yes ☐ No ☐ Unknown

d. Discuss/Describe: ______________________

____

____

____

____

e. Are extended reporting periods applicable in any of your past umbrella/excess policies?

☐ Yes (obtain copies) ☐ No ☐ Unknown

f. Notes: ______________________________

23. a. Does your liability program currently (or has it ever) contained a mixture of claims-made and occurrence layers? ☐ Yes ☐ No ☐ Unknown
b. Have you kept detailed records of these policies and layers? ☐ Yes ☐ No
c. Discuss claims-made/occurrence history: ______________________________

24. a. Do you have a system in place for monitoring the status of aggregate limits in current and past liability policies? ☐ Yes ☐ No
b. Describe: ______________________________

25. a. Please list major self-insured areas:

______________ ______________
______________ ______________
______________ ______________

b. Comments (i.e., rationale): ______________________________

26. a. Is there an on-going safety/loss control program? ☐ Yes ☐ No
b. Whose responsibility? ______________
c. Has it been effective? ☐ Very ☐ Somewhat ☐ Not at all
d. Is it supported by management? ☐ Highly ☐Somewhat ☐ Very Little
e. Is there a formal safety committee? ☐ Yes ☐ No
f. Are regularly scheduled safety meetings held? ☐ Yes ☐ No
g. How often? ☐ Daily ☐ Weekly ☐ Monthly

h. Comments: ______________________________

27. Do the following receive Safety Orientation Training?

a. ☐ Upper level management
b. ☐ Supervisory personnel
c. ☐ Employees

d. If not, explain: ____

____

28. Are regularly scheduled safety inspections held? ☐ Yes ☐ No
a. How often? ☐ Daily ☐ Weekly ☐ Monthly

29. a. Is there a written contingency/disaster plan? ☐ Yes ☐ No

b. Comments: ____

____

____

30. a. Have you had any insurance policies cancelled within the last three years? ☐ Yes ☐ No
b. List

Policy	Insurer	Date Cancelled	Reason if Known
________	____________	______________________	
________	____________	______________________	
________	____________	______________________	

AUTOMOBILE PHYSICAL DAMAGE AND LIABILITY EXPOSURES

1. a. Do any employees, executives, or directors have a "company car? ☐ Yes ☐ No
   b. Is there a written company policy regarding personal use? ☐ Yes ☐ No
   c. What is policy? ______________________________

2. Do individuals with company cars, if any, also purchase individual personal automobile insurance?
   ☐ Yes ☐ No ☐ Uncertain

3. If the answer to #2 is no, is "drive another care" or family auto coverage needed?
   ☐ Yes ☐ No

4. Are any company vehicles used to transport/tow:

i.	Hazardous substances?	☐ Often	☐ Occasionally	☐ Never
ii.	Butane, propane, or other gases?	☐ Often	☐ Occasionally	☐ Never
iii.	Employees?	☐ Often	☐ Occasionally	☐ Never
iv.	Public?	☐ Often	☐ Occasionally	☐ Never
v.	Non-owned trailers?	☐ Often	☐ Occasionally	☐ Never
vi.	Extra-wide loads?	☐ Often	☐ Occasionally	☐ Never

5. Are owned trailers ever towed by non-owned tractors?
   ☐ Often ☐ Occasionally ☐ Never

6. Are any of the trucks required to make statutory filings? ☐ Yes ☐ No
   a. If so, what type(s) of filing? ______________________________
   ____

7. As regards employees who frequently drive vehicles on company business:

i.	Are periodic Motor Vehicle Reports obtained?	☐ Yes	☐ No
ii.	Are pre-employment physicals given?	☐ Yes	☐ No
iii.	Are references checked?	☐ Yes	☐ No
iv.	Are periodic physicals given?	☐ Yes	☐ No
v.	Is there a system for verifying current drivers licenses?	☐ Yes	☐ No
vi.	Are defensive driving courses given?	☐ Yes	☐ No
vii.	Are accident files maintained on each driver?	☐ Yes	☐ No
viii.	Are periodic alcohol and drug tests given to employees?	☐ Yes	☐ No

8. a. Approximate number of employees who regularly drive their personal auto on business: ______________
   b. Method of expense reimbursement: ______________________________
   c. Is there a company policy requiring all employees who use their personal autos on company business to purchase personal auto insurance? ☐ Yes ☐ No
   d. If (c) is yes, is compliance with the policy verified? ☐ Yes ☐ No

9. a. Are car pooling arrangements for employees' transportation to work sponsored by the port? ☐ Yes ☐ No

b. If yes, describe: ____

____

10. a. Does the port ever borrow or hire vehicles? ☐ Often ☐ Occasionally ☐ Never
b. Cost of annual hire: $______________
c. Cost of independent contractors used, if any: $______________
d. Who furnishes drivers? ____
e. Does lessor provide any insurance? ☐ Yes ☐ No
Describe: ____

____

f. Does port's name appear on any of these vehicles? ☐ Yes ☐ No

11. a. Do employees of the port ever rent cars from rental agencies (Avis, Hertz, etc.)?
☐ Yes ☐ No
b. If so, indicate approximate frequency:
☐ Less than 10 times/year
☐ 10-50 times/year
☐ 50-100 times/year
☐ 100-500 times/year
☐ More than 500 times/year
c. Is there a company policy regarding the optional "collision coverage" and "personal accident coverage" offered by these ports? ☐ Yes ☐ No
d. If (c) is yes, what is policy? ____

____

12. a. If the port frequently rents care from rental agencies, has an attempt to negotiate a standard collision deductible and liability limit been made with one or more of these agencies?
☐ Yes ☐ No
b. Comments, if yes: ____

____

13. a. Are any vehicles:
i. Not subject to motor vehicle registration? ☐ Yes ☐ No
ii. Maintained solely for use on premises? ☐ Yes ☐ No
iii. Designed principally for use off public roads? ☐ Yes ☐ No
iv. Designed or maintained solely to afford mobility to equipment? ☐ Yes ☐ No
b. If any of the above are yes, should any of these be deleted from auto policy?
☐ Yes ☐ No
c. Comments: ____

____

____

14. a. Do you have seasonal-type operations that result in the lay-up of any vehicle for thirty (30) or more consecutive days? ☐ Yes ☐ No
b. If yes, comment: ____

____

15. a. Is there a vehicle maintenance program? ☐ Yes ☐ No
b. Describe: ____

____

____

____

16. Obtain list of all vehicle lienholders (e.g., banks).

17. a. Do employees ever drive cars belonging to customers?
☐ Often ☐ Occasionally ☐ Never
b. Indicate circumstances: ____
____
____

18. a. Do you ever lease or loan vehicles to others? ☐ Often ☐ Occasionally ☐ Never
b. Describe circumstances: ____
____
____
____

19. a. Do you own or sponsor a car for racing? ☐ Yes ☐ No
b. Comments: ____
____

20. a. Do you ever:
i. Pick up or deliver customer's cars? ☐ Yes ☐ No
Distance __________ miles.
ii. Perform tire recapping or retreading? ☐ Yes ☐ No
iii. Tow or haul vehicles of others? ☐ Yes ☐ No

21. Are any of your vehicles equipped with:
a. Anti-theft devices: ☐ All ☐ Some ☐ None
b. Alarms: ☐ All ☐ Some ☐ None

22. Indicate principal place(s) of garaging and relative values exposed to physical damage:

	Location City/State	No. Private Passenger	No. Trucks	Maximum Value Exposed	Minimum Value Exposed
1.				$	$
2.				$	$
3.				$	$
4.				$	$
5.				$	$
6.				$	$
7				$	$
8.				$	$
9.				$	$
10.				$	$

PREMISES-OPERATIONS LIABILITY EXPOSURES

Premises Hazards

1. a. Do you own any vacant land? ☐ Yes ☐ No
   b. Explain location, area, use: ____________________

2. a. Do you have any swimming pools, lakes, ponds, or reservoirs on or streams, rivers running through your properties or job sites? ☐ Yes ☐ No
   b. Explain access, uses, protective measures: ____________________
   c. Do you make a charge for their use? ☐ Yes ☐ No
   Annual receipts: $__________

3. a. Do you have any grandstands or auditoriums? ☐ Yes ☐ No
   b. Explain uses, number of seats, receipts, protective measures: ____________________

4. a. Do you own any recreational parks, exercise facilities, or other health salon-type facilities? ☐ Yes ☐ No
   b. Explain type, purpose, protective measures: ____________________

5. a. Do you own any horses, livestock, or wild animals? ☐ Yes ☐ No
   b. Explain type, purpose, protective measures: ____________________

6. a. Do you store any explosive, caustic, flammable, or volatile agents on any properties or job sites? ☐ Yes ☐ No
   b. Explain, particularly proximity to other persons or property: ____________________

7. a. Do you have any boilers, compressors, or pressure vessels on any of your properties or job sites? ☐ Yes ☐ No
   b. Explain nature, use, proximity to others' property/persons: ____________________

8. Estimate value of surrounding non-owned buildings and premises.

Location:______________________

North $______________________
South $______________________
East $______________________
West $______________________
Total $______________________

Location:______________________

North $______________________
South $______________________
East $______________________
West $______________________
Total $______________________

Location:______________________

North $______________________
South $______________________
East $______________________
West $______________________
Total $______________________

Location:______________________

North $______________________
South $______________________
East $______________________
West $______________________
Total $______________________

Elevators

9. Do you have any of the following types of elevators?
☐ Passenger ☐ Freight ☐ Escalators ☐ Hoists
If so, describe (including height): ______________________

10. a. Do the elevators require operators? ☐ Yes ☐ No
b. If yes, who furnishes the operators? ______________________

11. a. Do you have an elevator maintenance contract? ☐ Yes ☐ No
b. If yes, describe contract: ______________________

12. How often are inspections performed and by whom?
____

13. Are elevators equipped with interlocks or cargate contacts? ☐ Yes ☐ No

Operational Hazards

14. a. Do you have nurses, paramedics, or other medical professionals at any of your facilities?
☐ Yes ☐ No
b. If yes, explain duties, training: ______________________
c. Do these individuals carry personal professional liability insurance? ☐ Yes ☐ No

15. a. Do you have armed guards at any of your facilities? ☐ yes ☐ No
    b. Explain: ____
    ____
    ____

16. a. Do you use any independent contractors? ☐ Often ☐ Occasionally ☐ Never
    b. Explain use: ____
    ____
    ____
    c. Obtain sample contracts if not already secured.
    d. Approximate annual expenditures: $____________________

17. a. Do you lease real property to others? ☐ Yes ☐ No
    b. Obtain sample lease if not already secured.
    c. Location, value, use: ____
    ____

18. a. Do you rent or lease personal property to others? ☐ Yes ☐ No
    b. Obtain sample lease/rental agreement if not already secured.
    c. Type of property, value, use: ____
    ____

19. a. Do you ever serve alcoholic beverages to others?

i.	Employees	☐ Frequently	☐ Occasionally	☐ Never
ii.	Customers	☐ Frequently	☐ Occasionally	☐ Never
iii.	Members (i.e., clubs)	☐ Frequently	☐ Occasionally	☐ Never
iv.	General public	☐ Frequently	☐ Occasionally	☐ Never

    b. Annual receipts (if applicable): $__________ % of alcohol to food sales: _________%
    c. States in which liquor is *sold*, if applicable: ____
    ____

20. a. Do you lease real property to others who sell, manufacture, or distribute alcoholic beverages to the public? ☐ Yes ☐ No
    b. Explain: ____
    ____
    ____
    c. Applicable states: ____
    ____

21. a. In your operations do you own or use any:

		Own*		**Use**	
i.	Aircraft	☐ Yes	☐ No	☐ Yes	☐ No
ii.	Watercraft	☐ Yes	☐ No	☐ Yes	☐ No
iii.	Barges or floats	☐ Yes	☐ No	☐ Yes	☐ No
iv.	Docks	☐ Yes	☐ No	☐ Yes	☐ No
v.	Railroads	☐ Yes	☐ No	☐ Yes	☐ No

*Refer to aircraft or watercraft questionnaires.

    b. Explain use: ____
    ____
    ____

22. a. Do any of your employees, officers, or directors own watercraft? ☐ Yes ☐ No
Aircraft? ☐ Yes ☐ No
b. If yes, is there a company policy regarding business use? ☐ Yes ☐ No
Explain: ______________________________
____
____
c. Length of watercraft, if applicable: __________feet

23. a. Do you ever use explosives in your operations? ☐ Often ☐ Occasionally ☐ Never ☐ Subcontractors use
b. Explain use, frequency, expertise, safeguards: ______________________________
____
____

24. a. Do your operations ever involve underground excavation?
☐ Often ☐ Occasionally ☐ Never

25. a. Does your port publish any pamphlets, books, newsletters, magazines, etc.?
☐ Yes ☐ No
b. Obtain copies or samples.
c. Annual revenues: $__________________

26. a. Does your port ever sponsor sports or athletic events or teams?
☐ Often ☐ Occasionally ☐ Never
b. Discuss and explain: ______________________________
____
____
____

27. a. Do your operations ever involve nuclear isotopes or radioactive materials of any kind?
☐ Often ☐ Occasionally ☐ Never
b. Explain: ______________________________
____
____

28. Do you ever perform operations on or within 50 feet of the following:

Yes	No	Describe
☐	☐	Rivers, streams
☐	☐	Lakes, ponds, reservoirs

____
____

Yes	No	Describe
☐	☐	Dams
☐	☐	Railroads
☐	☐	Chemical storage or processing facilities
☐	☐	Power lines
☐	☐	Oil or gas pipelines
☐	☐	Airports or runways
☐	☐	Aircraft
☐	☐	Watercraft

29. a. Are any structural alterations or any construction projects currently underway or planned for the next 12 months? ☐ Yes ☐ No

b. Explain: ____

30. a. Do you ever take possession of the personal property of others for any reason (e.g., storage, repair, transportation, collateral, etc.)?
☐ Often ☐ Occasionally ☐ Never
b. If yes, please explain: ____
c. Indicate value: $______________

31. a. Do you rent or lease any real property from others?
☐ Often ☐ Occasionally ☐ Never
b. If yes, explain details, obtain lease: ____
c. Indicate value: $______________

32. a. Do you have any parking lots, garages, etc. on your (owned or leased) properties that are used by the public? ☐ Yes ☐ No

Environmental Impairment

33. a. Do you operations generate any "hazardous wastes?" ☐ Yes ☐ No ☐ Uncertain
b. If yes, explain details and methods of disposal: ____
c. Discuss measures taken to comply with federal, state, local regulations, laws and ordinances. Comments: ____

34. a. Has the property you are located in ever been used in the past for industrial or manufacturing purposes? ☐ Yes ☐ No
b. If yes, describe operations if known: ____

35. a. Are you located adjacent to a site or property that is listed as a hazardous waste site under any federal, state, or environmental statues? ☐ Yes ☐ No
b. If yes, is it the subject of any environmental litigation or regulatory enforcement action? ☐ Yes ☐ No

36. Are there currently or in the past any of the following used or stored on premises?

- ☐ Pesticides
- ☐ Paints
- ☐ Batteries (auto or industrial)
- ☐ Solvents
- ☐ Other chemicals (describe)______________________________
- ☐ Materials stored in steel industrial drums (55 gallon)______________________________
- ☐ Fiberglass bulk containers (dry chemicals)______________________________

37. a. Do your operations require the use of potentially hazardous chemicals or substances (e.g., silicon, asbestos, PCBs, etc.)? ☐ Yes ☐ No ☐ Uncertain

b. If yes, explain details including quantities, uses, methods of storage: ______________________________

____

____

____

38. a. If your site was filled with dirt or other materials, do you have knowledge of source? ☐ Yes ☐ No

b. If yes, was dirt/material from a contaminated site? ☐ Yes ☐ No

39. Was your site ever used as a landfill or for other waste disposal or treatment? ☐ Yes ☐ No

40. Are you aware of any type of spill (chemical, oil or other material) at your premises? ☐ Yes ☐ No

41. a. If you are served by a private water system or well, has it been designated as contaminated by any governmental or environmental authority? ☐ Yes ☐ No

b. When was the water supply last tested? ______________________________

42. Are you aware of any lead or other metal contaminants in your drinking water? ☐ Yes ☐ No

43. a. Do you have any underground storage tanks on any of your (owned or leased) properties? ☐ Yes ☐ No ☐ Uncertain

b. If yes, give details including location, age, use: ______________________________

____

____

c. Describe any monitoring procedures and seepage control methods: ______________________________

____

____

44. a. Do you have any special storage areas for wastes, flammable materials, or any other type of hazardous compounds? ☐ Yes ☐ No

b. If yes, explain: ______________________________

____

c. Is there any evidence of environmental contamination (e.g., foul orders, dead vegetation, frothy water, etc.)? ☐ Yes ☐ No

45. a. Do you own an interest in any oil or gas wells or pipelines? ☐ Yes ☐ No

b. If yes, explain type of ownership, number of wells: ______

______

______

46. a. Do you perform operations for others that could result in a pollution incident?
☐ Yes ☐ No

b. If yes, please explain: ______

______

______

______

47. a. Do any of your buildings or premises contain:

i.	Asbestos?	☐ Yes	☐ No	☐ Uncertain
ii.	Transformers with PCBs?	☐ Yes	☐ No	☐ Uncertain
iii.	Formaldehyde insulation?	☐ Yes	☐ No	☐ Uncertain
iv.	Evidence of radon?	☐ Yes	☐ No	☐ Uncertain

b. Location(s), corrective measures: ______

______

______

48. a. Has your port ever been cited by the EPA or the state for violation of a law, regulation or ordinance? ☐ Yes ☐ No

b. Details: ______

______

49. Indicate distance (in miles) from operations and any of the following:

______Agriculture
______Tourist or recreational area
______Forests

______Lakes
______Rivers

Advertising

50. a. What is the approximate annual advertising budget?
Last year: $______ This year: $______ Next year: $______

b. Do you use an advertising agency? ☐ Always ☐ Sometimes ☐ Never

c. Is advertising copy reviewed by:

Risk manager?	☐ Yes	☐ No
Outside legal counsel ?	☐ Yes	☐ No
Employed legal counsel?	☐ Yes	☐ No

51. Indicate media used and approximate extent of use:

Television	_______%
Radio	_______%
Newspaper	_______%
Magazine	_______%
Direct Mail	_______%
Other*	_______%
	100%

*Please describe: ____

52. If comments or pictures are used in advertising, are signed releases obtained?
☐ Yes ☐ No

Employee Benefit Plan Exposures

53. a. Types of benefit plans in use, self-funded?

Use		Self-Funded?	
☐	Pension	☐ Yes	☐ No
☐	Profit sharing	☐ Yes	☐ No
☐	Group medical	☐ Yes	☐ No
☐	Dental	☐ Yes	☐ No
☐	Prepaid legal	☐ Yes	☐ No
☐	Group life	☐ Yes	☐ No
☐	Long-term disability	☐ Yes	☐ No
☐	Short-term disability	☐ Yes	☐ No
☐	Other	☐ Yes	☐ No

54. a. Are there any pension, profit sharing, or similar plans that might give rise to an exposure under ERISA? ☐ Yes ☐ No
b. If yes, explain type and name of plan(s), trustees, assets, method of funding:

____

55. a. Does personnel director consult with employees regarding benefit plans and personal financial planning? ☐ Yes ☐ No
b. In the event of an appeal on benefits denial, is there an established procedure for a Benefit Plan Review Board? ☐ Yes ☐ No
c. Explain: ____

Personnel Practices/Relations

56. a. Employee breakdown — indicate approximate percentages.

Total Workforce		Executives/Officers	
Male ______%	Caucasian ______%	Male _______%	Caucasian _______%
Female _____%	Minorities ______%	Female _____%	Minorities ________%
Total 100%	Total 100%	Total 100%	Total 100%

b. Is your port an "equal opportunity employer?" ☐ Yes ☐ No

c. Has your port ever had (I) an EEOC suit lodged against it? ☐ Yes ☐ No
or (ii) wrongful termination suit lodged against it? ☐ Yes ☐ No

d. If (c) is yes, give details, result: ______________________________

____

57. a. Is there an employee handbook? ☐ Yes ☐ No

b. Obtain copy if not already secured.

58. a. Is your port unionized? ☐ Yes ☐ No

b. Name of union: ______________________________

c. Describe relationship: ______________________________

____

____

d. Any contracts up for renegotiation in the next 24 months? ☐ Yes ☐ No
Date of expiration: ____________________

59. a. If 61 is no, have your employees ever attempted to unionize? ☐ Yes ☐ No

b. Outcome/Comments: ______________________________

____

60. a. In general, do you use subcontractors that are unionized? ☐ Yes ☐ No

61. a. Have you adopted a formal drug and alcohol abuse policy? ☐ Yes ☐ No

b. Describe:

____

____

62. a. Have you taken steps to comply with the Americans with Disabilities Act (ADA)?
☐ Yes ☐ No

b. Comments: ______________________________

____

COMPLETED OPERATIONS LIABILITY EXPOSURES

1. a. Exposure activity
   - ☐ Construction
   - ☐ Drilling
   - ☐ Fuel/chemical delivery
   - ☐ Installations
   - ☐ Loading/stevedoring
   - ☐ Maintenance
   - ☐ Pesticide/herbicide application
   - ☐ Repairs
   - ☐ Other, describe: ____________________

   b. General description of major activity: ____________________

2. a. Does your port perform any design or engineering services as part of your activities? ☐ Yes ☐ No
   b. If yes, is this work performed by your *employees*? ☐ Yes ☐ No
   c. Is this work ever done by *subcontractors*? ☐ Often ☐ Occasionally ☐ Never
   d. If (c) is yes, do you require and maintain evidence of professional liability insurance? ☐ Yes ☐ No

3. a. Does your port perform any construction management services? ☐ Often ☐ Occasionally ☐ Never
   b. Annual construction management fees: $__________
   c. If a is yes, do you ever simultaneously engage in construction operations? ☐ Often ☐ Occasionally ☐ Never

4. a. What percentage of work is subcontracted? __________%
   b. For the upcoming year, what is the estimated "cost of the work sublet?" $__________

5. a. Does your port ever own the property being installed, erected, or constructed? ☐ Often ☐ Occasionally ☐ Never
   b. If yes, is the property ever put to its intended use, other than testing, prior to the transfer of ownership? ☐ Often ☐ Occasionally ☐ Never
   c. At what point is property ownership transferred?
   ____
   ____
   ____

6. a. Does your port modify, assembly, or install the products of others? ☐ Often ☐ Occasionally ☐ Never
   b. Explain: ____________________
   ____
   ____

7. What is the ultimate value of the end work-product on which you perform operations (include value added by all other contractors or ports):
   - i. Average value $__________
   - ii. Highest value $__________

8. a. If you perform maintenance or repair operations, what is the value of:

	Average Value	Maximum Value
i. The component or part on which you work:	$__________	$__________
ii. The machine, device, or structure:	$__________	$__________
iii. The facility, enclosure, or building:	$__________	$__________

b. Could a malfunction resulting from your repairs or maintenance:

i. Totally destroy (ii) in (a) above?	☐ Yes	☐ No
ii. Totally destroy (iii) in (a) above?	☐ Yes	☐ No

c. Discuss and explain: ____

____

____

9. a. Have you ever performed work outside the U.S., Canada, and Puerto Rico?
☐ Yes ☐ No

b. If so, explain type of work, dated completed, and other pertinent details: ______________

____

____

10. a. Have you ever performed work:

i. As a joint venture partner? ☐ Yes ☐ No

ii. Where insurance was provided under a "wrap-up" or owner controlled insurance plan?
☐ Yes ☐ No

b. Describe, including approximate date, type of work, insurance coverage still in effect (if any):

____

____

____

____

11. a. Have you ever been involved in experimental or untested methods of construction?
☐ Yes ☐ No

b. Explain, including approximate date, type of work, etc.: ______________________

____

____

____

____

12. Type of construction (contractors):

Indicate percentage of the type of projects undertaken:

Building Construction

- Commercial ______%
- Educational ______%
- Hospitals-health care ______%
- Public assembly ______%
- Recreational ______%

Industrial Construction

- Bulk storage facilities ______%
- Heavy industrial plants ______%
- Manufacturing and assembly plants ______%
- Refineries, petrochemical ______%
- Ammonia and urea plants ______%

Highway Construction

- Drainage ______%
- Excavation ______%
- Highway bridges ______%

Residential Construction

- Single family ______%
- Low-rise multifamily ______%
- High-rise multifamily ______%

Heavy Construction

- Dams ______%
- Large bridges ______%
- Marine ______%
- Tunnels ______%

Other Projects

- ____________________ ______%
- ____________________ ______%
- ____________________ ______%
- ____________________ ______%

CONTRACTUAL LIABILITY EXPOSURES

1. a. Does the port have a formalized (and used) procedure for review contracts from a risk management/insurance perspective? ☐ Yes ☐ No
   b. If so, who does this review:
      - ☐ Risk Manager
      - ☐ Insurance agent/broker
      - ☐ Contract manager
      - ☐ Legal counsel
      - ☐ Other: ____________________
   c. Describe procedure and qualifications of reviewer(s), if not obvious from title:

      ____

      ____

      ____

      ____

2. a. Does the port require the following types of "suppliers" to meet certain minimum levels of insurance?

Contractors	☐ Yes	☐ No
Materials/parts suppliers	☐ Yes	☐ No
Services firms	☐ Yes	☐ No
Consultants	☐ Yes	☐ No
Attorneys	☐ Yes	☐ No
Insurance agents	☐ Yes	☐ No
Accountants	☐ Yes	☐ No
Armored car services	☐ Yes	☐ No
EDP services	☐ Yes	☐ No
Security services	☐ Yes	☐ No

   b. Are certificates of insurance required? ☐ Always ☐ Occasionally ☐ Never
   c. If certificates are required, is there a "tickler"/follow-up system to assure that current certificates are always on file? ☐ Yes ☐ No
   d. Details/Comments: ____________________

      ____

      ____

      ____

3. a. Does the port have a standard hold harmless clause that it attempts to implement in all contracts with suppliers and service providers? ☐ Yes ☐ No
   b. Has this clause been periodically reviewed by:
      Legal counsel? ☐ Yes ☐ No
      Risk management advisers ☐ Yes ☐ No

4. a. Does the port ever require others to name it as an additional insured on the "others" liability insurance? ☐ Often ☐ Occasionally ☐ Never
   b. In general, when is this requirement made?

5. a. Is there a system for notifying the port's insurance representative of contract insurance requirements made of it in contracts with others (e.g., adding them as additional insureds to your policies)? ☐ Yes ☐ No

b. Explain the system: ____

____

____

____

6. a. Do you lease real or personal property to others? ☐ Yes ☐ No
   b. If so, do you:
      i. Require certain minimum levels of insurance? ☐ Yes ☐ No
      ii. Require certificates? ☐ Yes ☐ No
      iii. Have a system to keep certificates current? ☐ Yes ☐ No
   c. Obtain sample lease if not already secured.

7. On property rented to others:
   a. Are tenants held liable for fire rate increases in building due to occupancy? ☐ Yes ☐ No
   b. Are tenants required to carry insurance in your favor for:
      i. Fire insurance? ☐ Yes ☐ No
      ii. Liability insurance? ☐ Yes ☐ No
   c. Are tenants responsible for repairs and maintenance? ☐ Yes ☐ No

8. a. Do you utilize a custom insurance certificate? ☐ Yes ☐ No
   b. Obtain a copy.

PROFESSIONAL/ERRORS AND OMISSIONS

Liability Exposures

1. Does the port or any subsidiary or affiliate perform any of the following services for others either with its own personnel or by way of subcontractors?

	In-house	Subcontract	Annual Revenues
Accounting	☐	☐	$______________
Actuarial	☐	☐	$______________
Advertising	☐	☐	$______________
Ambulance/Paramedic	☐	☐	$______________
Architectural	☐	☐	$______________
Attorneys	☐	☐	$______________
Claims Adjusting	☐	☐	$______________
Collection Agents	☐	☐	$______________
Construction Management	☐	☐	$______________
Consulting/Counseling	☐	☐	$______________
Data Processing	☐	☐	$______________
Design	☐	☐	$______________
Escrow Agent	☐	☐	$______________
Engineering/Testing	☐	☐	$______________
Insurance Sales/Service	☐	☐	$______________
Law Enforcement	☐	☐	$______________
Medical	☐	☐	$______________
Nursing/Rehabilitation	☐	☐	$______________
Notary Public	☐	☐	$______________
Property Appraisal	☐	☐	$______________
Public Office	☐	☐	$______________
Safety/Loss Control Services	☐	☐	$______________
Security Services	☐	☐	$______________

2. List individuals

Name	**Activity/Service**	**Qualifications**
______________	______________	______________
______________	______________	______________
______________	______________	______________
______________	______________	______________
______________	______________	______________
______________	______________	______________

3. Generally, describe quality control/loss control activities:

____

____

____

PERSONNEL AND WORKERS' COMPENSATION EXPOSURES

1. a. List all states in which operations are currently taking place: ______________________
____
____

   b. List all states, not included in above, where it is anticipated that operations will begin within 12 months: ______________________
____
____

   c. Are there any operations currently conducted or planned in any of the following monopolistic fund states (check applicable states)? ☐ Yes ☐ No

☐ Nevada	☐ U.S. Virgin Islands
☐ North Dakota	☐ Washington
☐ Ohio	☐ West Virginia
☐ Puerto Rico	☐ Wyoming

2. a. Do any employees regularly travel on temporary assignment overseas or is any overseas travel planned for the next 12 months:
☐ Often ☐ Occasionally ☐ Never ☐ Planned

   b. List countries; number of personnel, activities: ______________________
____
____

3. a. If there are any ongoing permanent or long-term foreign operations, fill in chart below:

Country	# U.S. Nationals	# Foreign Nationals	Type of Work

   b. Are compulsory insurance requirements known and complied with? ☐ Yes ☐ No
Comments: ______________________
____
____

4. a. Does the port perform operations on or have employees who regularly work on foreign U.S. defense bases or public works projects outside the U.S. (Defense Base Act)? ☐ Yes ☐ No

   b. Location, number employees, payroll: ______________________
____
____

5. a. Does the port own, rent, or operate or are operations performed on docks, piers, wharves, etc. (USL&H)? ☐ Yes ☐ No

   b. Explain: ______________________
____

6. a. Does the port own or operate any ships, boats, barges, etc. or would employees have any occasion to work aboard such conveyances? ☐ Yes ☐ No

b. Explain: ______________________________

7. a. Are any operations performed on the Outer Continental Shelf?

☐ Often ☐ Occasionally ☐ Never

b. Explain: ______________________________

8. a. Does the port employ or use any of the following types of workers that may not be subject to the workers compensation law?

☐ Farm workers ☐ Volunteers

☐ "Casual" (irregular, special job) employees ☐ Corporations with less than 3 employees

☐ Domestic employees ☐ Other: __________

b. Indicate state(s), operations, other details: ______________________________

9. a. Does the port perform operations or have employees who would be subject to the Migrant and Seasonal Agricultural Workers Compensation Act? ☐ Yes ☐ No

b. Explain: ______________________________

10. a. Does the port own a railroad (FELA)? ☐ Yes ☐ No

b. Obtain payrolls, number employees, etc.: ______________________________

11. a. Is there a potential for multiple injuries, illness, death, or disability of employees from:

		Estimate Likelihood			
Event	**Max. No. Employees Exposed**	**Nil**	**Slight**	**Mod.**	**High**
Corp. Owned Aircraft Disaster					
Commercial Aircraft Disaster					
Car or Van Pool Accidents					
Rail Travel Disaster					
Other Travel Disasters					
Epidemic					
Sabotage/Assassination					
Exposure to Asbestos, Silicon, Other Harmful Agents					
Industrial Accident (e.g., explosion, building collapse, pollution release, etc.)					

b. Is there a corporate policy concerning the number of key individuals who travel together?
☐ Yes ☐ No

Details: ____

____

12. a. Estimate exposure to kidnap/ransom (K&R): ☐ High ☐ Intermediate ☐ Low
b. Is there a formal K&R plan in place? ☐ Yes ☐ No
c. Comments: ____

____

____

13. a. List the names of the following key personnel:

Risk/insurance manager ______________________
Safety manager ______________________
Maintenance/engineer manager ______________________
Plant superintendent ______________________
Controller ______________________
Personnel director ______________________
First aid director ______________________
Purchasing agent ______________________
Other ______________________

____

b. List key individuals necessary to continue operations, continue sales volume, continue important research and development, or otherwise necessary for continued business prosperity:

Name	Title	Function	Age	Est. Economic Value

14. a. If a sole proprietorship or partnership, is there a funded buy-sell agreement?
☐ Yes ☐ No
b. Does it contemplate long-term disability as well as death? ☐ Yes ☐ No

15. a. Is there a safety director? ☐ Yes ☐ No
b. Name: ______________________ Title: ______________________
Location: ______________________

16. a. Is there a corporate safety policy statement? ☐ Yes ☐ No
b. Obtain copy.

17. a. Is there a safety manual? ☐ Yes ☐ No
b. Obtain a copy.

18. a. Are periodic safety meetings held? ☐ Yes ☐ No
    b. How often, and with whom? ____

____

____

19. a. Are pre-employment physicals used? ☐ Yes ☐ No
    b. What positions? ____

____

20. Is pre-employment testing for any of the following conducted?

Alcohol abuse	☐ Yes	☐ No
Drug abuse	☐ Yes	☐ No
Tendencies toward dishonest acts	☐ Yes	☐ No
Psychological stability	☐ Yes	☐ No
Safety attitudes	☐ Yes	☐ No

21. a. Are annual physicals required of any employees? ☐ Yes ☐ No
    b. What positions? ____

____

____

22. Do any employees have physical handicaps? ☐ Yes ☐ No

23. a. Are any employees under 18 years old? ☐ Yes ☐ No
    b. Are work permits required? ☐ Yes ☐ No

24. a. Is there a formalized accident investigation procedure which requires prompt notification with details (preferably on a standardized form)? ☐ Yes ☐ No
    b. Details: ____

____

____

25. Have Job Safety Analyses (JSAs) been performed on positions requiring physical exertion or the handling/use of potentially harmful agents? ☐ Yes ☐ No

26. a. Has an effort to identify all potentially hazardous chemicals, agents, materials been made? ☐ Yes ☐ No
    b. If yes, are records maintained regarding handling precautions, emergency treatment?

____

____

    c. Are such materials labeled? ☐ Yes ☐ No

27. a. Is there a formal system for accident records and analysis? ☐ Yes ☐ No
    b. Describe: ____

____

____

28. a. Are you ever inspected by OSHA? ☐ Frequently ☐ Occasionally ☐ Not to Date
    b. Date of last inspection: ____________________
    c. Ever cited or fined? ☐ Yes ☐ No

d. Describe c: ____

____

____

29. a. Does the port maintain a first-aid station or dispensary? ☐ Yes ☐ No
b. Is there a doctor or nurse on staff? ☐ Yes ☐ No
c. If no nurse or doctor, do you have employees trained in first aid and CPR? ☐ Yes ☐ No

30. Are employees provided with health plans as a benefit? ☐ Yes ☐ No

31. a. Are employees exposed to riding in special equipment such as man lifts, cranes, etc.? ☐ Yes ☐ No
b. If yes, explain: ____

____

____

32. a. Is there any unusual noise exposure? ☐ Yes ☐ No
b. If yes, explain: ____

____

____

33. Is there any work performed:
a. Underground? ☐ Yes ☐ No
b. Above 15 feet? ☐ Yes ☐ No

34. a. Are subcontractors used for any of your operations? ☐ Yes ☐ No
b. If yes, explain: ____

____

____

c. Are certificates of insurance required? ☐ Yes ☐ No

35. a. Do you sponsor any employee athletic team? ☐ Yes ☐ No
b. If yes, describe activity: ____

____

____

36. a. I there a labor interchange with any other business or subsidiary? ☐ Yes ☐ No
b. If yes, explain: ____

____

____

37. a. Do you lease employees to or from other employers? ☐ Yes ☐ No
b. On what basis? ☐ Short-term ☐ Long-term

38. Do you have employees working predominantly at home? ☐ Yes ☐ No

OWNED/LEASED AIRCRAFT LIABILITY AND PHYSICAL DAMAGE EXPOSURES

1. Check Aircraft Exposure

	Type	Describe Use
☐	Fixed wing	________________
☐	Helicopters	________________
☐	Balloons, blimps	________________
☐	Hang gliders	________________
☐	Missile, rockets	________________
☐	Satellites	________________
☐	Other: ____________	________________
☐	____________	________________
☐	____________	________________

2. Obtain the following information on each aircraft:
   a. Make, model: ____________________
   b. Year: ____________________
   c. FAA number: ____________________
   d. Seating capacity, crew: ____________________
   e. Seating capacity, passengers: ____________________
   f. Number engines, type: No.: ____________ Type: ____________
   g. Purchased: ☐ New ☐ Used
   h. Purchase price: $____________
   i. Current value: $____________
   j. Engine hours since new: ____________; since last overhaul: ____________
   k. Use in last 12 months: ____________ hours
   l. Location of base: City: ____________ Airport: ____________
   m. Hangared? ☐ Yes ☐ No
      Tiedown? ☐ Yes ☐ No
   n. Lienholder: ____________________
   o. Indicate manner in which aircraft is used:
      Pleasure ________% Charter ________%
      Business ________% Instruction ________%
      If chartered, indicate purpose: ____________________
      ____

3. a. Are any aircraft equipped for amphibious landing? ☐ Yes ☐ No
   b. List aircraft
      ____________ ____________
      ____________ ____________

4. a. Are these aircraft ever used for travel outside the continental U.S. or Canada?
      ☐ Yes ☐ No
   b. List countries:
      i. ____________ iv. ____________
      ii. ____________ v. ____________
      iii. ____________ vi. ____________

c. Any need to purchase insurance from an admitted carrier in these countries (e.g., Mexico)?
☐ Yes ☐ No
List country numbers from above: ____________________

d. Estimate political risk exposure (e.g., expropriation) in these countries:
☐ High ☐ Moderate ☐ Low ☐ Nil

5. a. Do you own any:
Hangars? ☐ Yes ☐ No
Airfields, airports? ☐ Yes ☐ No
Refueling facilities/tankers? ☐ Yes ☐ No
Repair/service facilities? ☐ Yes ☐ No

b. Obtain location, description: ____________________
____
____

c. Are these used by the public? ☐ Yes ☐ No

d. Are they FAA-controlled? ☐ Yes ☐ No

6. Obtain the following information on each pilot:
a. Age: __________
b. Ratings: __________
c. Hours logged:
i. Total: __________ hrs.
ii. Last 12 months: __________ hrs.
iii. Last 90 days: __________ hrs.
d. Any physical impairments? ☐ Yes ☐ No
e. Annual physical required? ☐ Yes ☐ No
f. Any FAA citations? ☐ Yes ☐ No
Describe: ____________________
____
g. Are pilots required to complete recurrent training sessions? ☐ Yes ☐ No

7. a. Are owned aircraft ever used to transport the public (e.g., customers, prospects, etc.)?
☐ Often ☐ Occasionally ☐ Never
b. For a fee? ☐ Yes ☐ No
Describe: ____________________
____
____

8. a. Does port have lease/rental agreement with regard to non-owned and leased aircraft?
☐ Yes ☐ No
b. Indicate party responsible for all physical damage to aircraft: ____________________
____
c. Indicate amounts of hull and liability insurance in lease/rental agreement:
i. Hull: __________
ii. Liability: __________
d. Indicate party responsible for operation and maintenance decisions: ____________________
____

Owned/Leased Watercraft Liability and Physical Damage Exposures

1. Check watercraft exposure

Type	Describe Use
☐ Pleasure boats, yachts	______
☐ Tugs	______
☐ Fishing boats	______
☐ Barges	______
☐ Freighters	______
☐ Tankers	______
☐ Submersibles	______
☐ Drilling rigs	______
☐ Other: ______	______
☐ ______	______
☐ ______	______
☐ ______	______

2. Obtain the following information on each watercraft:
   a. Name of boat: ______
   b. Make, model: ______
   c. Registration number: ______
   d. Year built: ______
   e. Length: ______
   f. Power: ______
   g. Engine serial number: ______
   h. Maximum speed: ______
   i. Crew size: ______
   j. Passenger size: ______
   k. Type of hull: ______
   l. Hull identification number: ______
   m. Usual cargo: ______
   n. Cargo capacity: ______ tons
   o. Waters traveled: ______
   p. Home port: ______
   q. Lay-up period: ______
   r. Country of registration: ______
   s. Purchased: ☐ New ☐ Used
   t. Purchase price: $______
   u. Est. current value: $______

3. Obtain the following additional information on each leased watercraft:
   a. Lessor: ______
      (Name)
      ______
      (Address)
      ______
      (City, State, Zip)
   b. Duration of lease: ______

c. Annual rental payment: ______________________________

d. Responsibility for insurance? ______________________________

____

____

4. a. Watercraft ever used for travel to (or operate out of) countries other than U.S. or Canada?
☐ Yes ☐ No

b. List countries:

______________ ______________

______________ ______________

c. Estimate political risk exposure (e.g., expropriation):
☐ High ☐ Moderate ☐ Slight ☐ Nil

5. a. Does your port ever:

Charter watercraft from others?	☐ Often	☐ Occasionally	☐ Never
Charter your watercraft to others?	☐ Often	☐ Occasionally	☐ Never
Crew the boats, ships of others?	☐ Often	☐ Occasionally	☐ Never
Repair the boats, ships of others?	☐ Often	☐ Occasionally	☐ Never

b. Describe: ______________________________

____

____

6. a. Do you employ a paid crew? ☐ Yes ☐ No

b. Qualifications, experience: ______________________________

____

7. a. Are pleasure craft ever used for:

i. Racing? ☐ Yes ☐ No

ii. Water skiing? ☐ Yes ☐ No

b. Comments: ______________________________

____

REAL AND PERSONAL PROPERTY EXPOSURES

General Information

1. Are any of the port's properties* located in an area prone to:

		*Location
☐	Flood	______________
☐	Earthquake	______________
☐	Sinkholes	______________
☐	Volcanic eruption	______________
☐	Mudslide/landslide	______________
☐	Avalanche	______________
☐	Subsidence	______________

2. a. Do all owned buildings meet *current* code requirements?
   ☐ Probably ☐ Possibly not ☐ Probably not

   b. What locations are least likely to meet current code requirements: ______________
   ____
   ____

   c. Estimate of additional cost to meet standards: ______________
   ____
   ____

3. Indicate any owned or leased locations where the following conditions may exist or operations are conducted:

Conditions/Operations	**Location(s)**
Boilers	______________
Pressure vessels	______________
Foundries	______________
Explosives storage	______________
Inflammables storage	______________
Radioactive material storage	______________
Corrosive material storage	______________
Welding	______________
Hazardous waste generation/ storage	______________

4. Are any owned or leased buildings or facilities located downstream from a dam?
   ☐ Yes ☐ No

5. a. How have insurable values been established?
   - ☐ Appraisal by qualified firm
   - ☐ Discussions with contractors or architects
   - ☐ Inspections by company personnel using published "appraisal system"
   - ☐ Accounting records
   - ☐ "Best guess"

b. Date values were established: ______________________

c. Are values periodically adjusted? ☐ Yes ☐ No

d. Do building values include an extra amount for the cost of:

i. Debris removal ☐ Yes ☐ No Amount: $__________

ii. Demolition? ☐ Yes ☐ No Amount: $__________

iii. Increased cost of construction from building codes ☐ Yes ☐ No Amount: $__________

6. a. Where you are a tenant, have you paid for any improvements or betterments?
☐ Yes ☐ No

b. Locations Amounts

______________________ $__________

______________________ $__________

7. a. Is there a written catastrophe plan? ☐ yes ☐ No

b. Comments: ______________________

____

____

8. a. Are employees instructed on procedures to follow in case of a fire?
☐ Yes ☐ No

b. Comments/training: ______________________

____

9. a. Are there any design peculiarities of your buildings or facilities? ☐ Yes ☐ No

b. Are the blueprints duplicated and stored off-premises? ☐ Yes ☐ No

c. Are contractors capable of the construction readily available? ☐ Yes ☐ No

d. Comments: ______________________

____

____

10. a. Are any renovations, additions, new construction, etc., planned during the next 12 months?
☐ Yes ☐ No

b. Describe: ______________________

____

____

11. a. Are there any owned buildings or facilities that, if destroyed, would not be rebuilt?
☐ Yes ☐ No

b. If so, indicate locations: ______________________

____

____

12. a. Are there any owned buildings or facilities that, if destroyed, would be rebuilt?

i. At a different location? ☐ Yes ☐ No

ii. For a different use/occupancy? ☐ Yes ☐ No

b. If so, indicate locations, details: ______________________

____

____

13. a. Do you own any of the following types of property?

	Type	Location	Est. Value
☐	Towers	____________	$________
☐	Transmitting equipment	____________	$________
☐	Antennae	____________	$________
☐	Bridges	____________	$________
☐	Tunnels	____________	$________
☐	Piers, wharves docks	____________	$________
☐	Fences and gates	____________	$________

b. Comments: ____

____

____

____

14. On property rented *from* others:

a. Name and address of lessor: ______________________________

____

b. Indicate amount of rent (monthly, annual): ____________________

____

c. Term of lease and expiration date: __________________________

____

d. Is a renewal option available: ☐ Yes ☐ No

e. Indicate any premium paid for lease: ____________________

f. Are you responsible for repairs and maintenance? ☐ Yes ☐ No

Personal Property of Others

15. a. Any goods held on consignment? ☐ Yes ☐ No

b. Value: $________________

c. Nature: ________________

16. a. Any personal property of employees (e.g., tools) for which port is responsible? ☐ Yes ☐ No

b. Value: $________________

17. See also premises-operations liability (care, custody, or control).

Machinery, Equipment, Tools, Dies, etc.

18. a. Are there any machinery, equipment, tools, dies, etc., that are absolutely essential to operations? ☐ Yes ☐ No

b. List: ____________________

____

____

____

c. Would any of the above be difficult to replace in a timely manner? ☐ Yes ☐ No

d. Have any contingency plans been made to secure replacements or utilize a different process? ☐ Yes ☐ No

e. Describe contingency plan: ____________________

____

____

f. If damage to equipment were to cause suspension of operations, what is the estimated daily loss? ____________________

____

g. What is the maximum probable period of shutdown? ____________________

____

19. a. Are food or other perishables stored in a refrigerator or freezer system? ☐ Yes ☐ No

b. List

Location	Average Value	Maximum Value

20. a. Is any important equipment subject to accidental breakdown? ☐ Yes ☐ No

b. Should insurance be considered? ☐ Yes ☐ No

21. Is an inventory of replacement parts maintained? ☐ Yes ☐ No

22. a. How would you describe the maintenance program?
☐ Excellent ☐ Poor ☐ Good ☐ Nonexistent ☐ Fair

b. Comments: ____________________

____

____

23. a. Is machinery or equipment subject to damage from power surges, power outages, or "brown-outs"? ☐ Yes ☐ No

b. Have any protective safeguards been taken? ☐ Yes ☐ No

c. Describe safeguards: ____________________

____

d. In the event of a breakdown or disruption, are alternate power and light readily available? ☐ Yes ☐ No

24. Are designs of custom equipment, tools, or dies duplicated and stored off premises? ☐ Yes ☐ No

25. Indicate value of any office equipment (typewriters, copy machines, etc.): ______________________
____
____

26. Do you have any promotional material (signs, models, exhibits, etc.) that might represent a substantial financial loss if damaged? ☐ Yes ☐ No
   a. If yes, describe and determine value: ______________________
   ____
   ____

27. Do you have security devices (cameras, alarms, smoke detectors, etc.) installed in your premises? ☐ Yes ☐ No

28. Do you have recreational facilities on premises? ☐ Yes ☐ No
   a. If yes, describe facilities and equipment: ______________________
   ____
   ____
   b. Indicate value of equipment at said facilities: ______________________
   ____

Stock (Raw, in Process, and Finished)

29. a. Is any stock subject to damage from the following?

	Peril	Location	Value
☐	Extremes of temperature	______	$______
☐	Dampness of atmosphere	______	$______
☐	Light	______	$______
☐	Darkness	______	$______
☐	Sound/noise	______	$______
☐	Contamination	______	$______
☐	Bacteria	______	$______
☐	Mold	______	$______
☐	Mildew	______	$______

   b. Protective safeguards: ______________________
   ____
   ____
   ____

30. a. Does port own any of the following?

	Property	Value
☐	Growing crops	$______
☐	Livestock	$______
☐	Show horses/race horses	$______
☐	Other valuable animals:	
	______	$______
	______	$______

b. Should insurance be considered? ☐ Yes ☐ No

31. a. Does value of stock on hand vary during the year? ☐ Yes ☐ No
b. Maximum value: $______________
c. Minimum value: $______________

32. a. Do others hold your property on consignment? ☐ Yes ☐ No
b. List distributors, minimum, maximum value on hand: ______________
c. Who is responsible for insurance? ______________

Plate Glass and Signs

33. a. Do any of your buildings have high valued, decorative or stained glass? ☐ Yes ☐ No
b. If yes, describe: ______________
Can you estimate the replacement value? $______________
c. Complete Plate Glass Schedule (pre-interview section) if not previously done.
d. Comments: ______________

34. a. Does any of the glass have lettering? ☐ Yes ☐ No
b. If yes, describe: ______________
c. Indicate value: $______________

35. a. Do you own any neon or other high valued signs or billboards? ☐ Yes ☐ No
b. Can you estimate total values? $______________
c. Are any located off of your premises? ☐ Yes ☐ No
d. Complete Neon Sign Schedule (pre-interview section) if not previously done).
e. Comments: ______________

Fine Arts

36. Does the port own any:

Item(s)	Location(s)	# Items	Total Value
☐ Fine arts?	______	______	$______
☐ Antiques?	______	______	$______
☐ Antique/classic autos?	______	______	$______

37. a. Does the port allow others to exhibit fine arts in its buildings?
☐ Often ☐ Occasionally ☐ Never
b. Maximum value exposed? $__________

Valuable Papers

38. a. Types of valuable papers:

☐ Maps	☐ Manuscripts	☐ Leases
☐ Plans	☐ Files	☐ __________
☐ Specifications	☐ Patents and copyrights	☐ __________
☐ Blueprints	☐ Contracts	☐ __________
☐ Plates	☐ Titles and deeds	☐ __________

b. What would be the effect of loss or destruction? __________

c. Cost to recreate? __________

39. a. Are valuable papers duplicated and stored off premises? ☐ Yes ☐ No
b. Where? __________

40. Are valuable papers stored in:
☐ U.L.-approved fireproof cabinets while on premises?
☐ Safe or vault?
☐ Other, describe: __________

Accounts Receivable

41. a. Are accounts receivable duplicated (back-up) and stored off premises?
☐ Daily ☐ Monthly ☐ Weekly ☐ Never
b. What would be the cost to recreate the records that would be lost in a catastrophe?
$__________

42. Are these records kept in:
☐ U.L.-approved fire resistant cabinets?
☐ Safe or vault?
☐ Other, describe: __________

43. Accounts receivable values:
a. Highest amount during year: $__________ (Usual month(s):
b. Lowest amount during year: $__________ (Usual month(s):
c. Average monthly amount: $__________

Miscellaneous Personal Property

44. a. Do you own a significant amount of any of the following types of property?

Type	Est. No. Units	Est. Total Value	Location
Camera, photographic	________	$__________	__________
Electronic (not EDP)	________	$__________	__________
Radio receivers/ Transmitters	________	$__________	__________
Sports equipment	________	$__________	__________
Railroad rolling stock	________	$__________	__________
Tools	________	$__________	__________
______________	________	$__________	__________
______________	________	$__________	__________
______________	________	$__________	__________
______________	________	$__________	__________

b. Comments/use/importance: ____

____

____

Mobile (i.e., Contractor's) Equipment

45. a. Do you ever:
   i. Loan your equipment to others? ☐ Often ☐ Occasionally ☐ Never
   ii. Rent your equipment to others with operators?
   ☐ Often ☐ Occasionally ☐ Never
   iii. Rent your equipment to others without operators?
   ☐ Often ☐ Occasionally ☐ Never

b. Comments/Rental Income: ____

____

____

____

46. a. Do you ever:
   i. Borrow equipment from others? ☐ Often ☐ Occasionally ☐ Never
   ii. Rent equipment from others? ☐ Often ☐ Occasionally ☐ Never

b. Highest value of equipment borrowed/rented: $__________________

c. Lowest value of equipment borrowed/rented: $__________________

47. a. Do you operate your equipment from barges, boats, watercraft, etc.?
   ☐ Often ☐ Occasionally ☐ Never

b. Comments: ____

____

____

48. Do any of your cranes or derricks have booms over 40 feet in length? ☐ Yes ☐ No

49. a. Do operators know the weight limitations of their equipment and do they use care not to exceed them? ☐ Yes ☐ No

b. Comments: ____

50. a. Is there an ongoing maintenance program? ☐ Yes ☐ No

b. Describe: ____

51. a. Do you plan any major equipment purchases during the next 12 months? ☐ Yes ☐ No

b. Describe (incl. est. cost): ____

52. a. Is any equipment used underground? ☐ Yes ☐ No

b. Describe: ____

53. a. Where is equipment stored when not in use? ______________________________

b. Indicate protective measures taken:

☐ Anti-theft devices
☐ Fence
☐ Lighting
☐ Night watchman
☐ Guard dogs
☐ Equipped with fire extinguishers
☐ Gas cap locks
☐ ______________________

Data Processing

54. Is the computer room equipped with a smoke and heat detection system? ☐ Yes ☐ No

55. a. Is the computer room equipped with an automatic fire suppressant system? ☐ Yes ☐ No

b. Indicate type:

☐ Halon
☐ Sprinkler
☐ CO^2
☐ Other: ______________________

c. Does activation of this system:

i. Sound a local alarm? ☐ Yes ☐ No
ii. Sound an alarm at a remote location? ☐ Yes ☐ No
iii. Automatically shut down computers? ☐ Yes ☐ No
iv. Automatically shut down air conditioning? ☐ Yes ☐ No

56. Is the EDP room physically separated from the media storage area? ☐ Yes ☐ No

57. a. How many days per week to you process? ________________ days

b. On average, how many hours per day do you process? ______________ hours/day

58. How long do you think it would take to replace the immediate environment housing the EDP operations? ____

59. a. Are duplicate programs maintained? ☐ Yes ☐ No
b. Are they stored in a totally separate location? ☐ Yes ☐ No
c. How frequently are they updated? ______________

60. a. Is media duplicated? ☐ Yes ☐ No
b. Is it stored in a total separate location? ☐ Yes ☐ No
c. How frequently is it updated? ________________

61. How long do you think it would take to replace your hardware? ______________________

62. a. Is your hardware configuration "unique?" ☐ Yes ☐ No
b. If so, is a duplicate configuration stored in a totally separate location? ☐ Yes ☐ No

63. a. Would loss of your EDP equipment cause an interruption of your income stream? ☐ Yes ☐ No
b. If so, estimate loss per month: $________________

64. a. If your EDP capability was lost, could you continue these functions manually? ☐ Yes ☐ No
b. If so, estimate additional cost per month: $______________

65. a. Is there a formal policy with respect to the installation of new software on corporate personal computers by employees? ☐ Yes ☐ No
b. Comments: ____

66. a. Is new software tested for viruses? ☐ Yes ☐ No
b. Comments: ____

67. Have measures been taken to secure the PBX (phone) system from access by outside computer hackers? ☐ Yes ☐ No

ENCLOSURES

Please include each of the following items:

- Annual Report
- Port map and marketing brochure
- 5-year loss history. Give dates of loss, paid and reserve amounts, type loss & description of each loss over $2,500. Attach insurance company loss runs if available.
- Copy of typical lease agreement with a major tenant
- Copy of tariff
- Drivers list. Specify drivers who have assigned vehicles.
- Copy of Port's security/safety plan - including use of vehicles
- Port tenant directory
- 5-year or 10-year capital improvement plans
- Property statement of values