RISK★TEX

INTERAGENCY COMMUNICATION FROM THE STATE OFFICE *of* RISK MANAGEMENT ★ JAN. 2003

SORM
STATE OFFICE *of* RISK MANAGEMENT

SORM TIP OF THE DAY

Stop searching your filing cabinet and bookshelves for a TWCC-1S or a notary acknowledgement form. Instead, surf the 'Net to find what you need.

SORM posts many helpful forms on its website. Go to www.sorm.state.tx.us and click on the "Publications/Forms" button.

You can find several of the most-used workers' compensation forms, such as the Employer's First Report of Injury or Illness (TWCC-1S) and the Employee's Election Regarding Utilization of Sick and Annual Leave (SORM-80).

Other forms posted on the website include those for notaries, the directors' and officers' liability statewide program, and the state insurance program.

Most of the forms are available in Adobe Acrobat format.

New terrorism insurance starts

By Sally Becker, Jeff Cox, and Curt Krill

On Nov. 26, 2002, President Bush officially signed the Terrorism Risk Insurance Act of 2002 into federal law. Upon his signature, existing terrorism exclusions became void. The Act officially falls under the administrative authority of the U.S. Treasury Department. The program instituted by the Act shall terminate on Dec. 31, 2005.

This legislative action was lauded by the insurance industry as a cooperative move to stabilize the market and reduce the threat of insolvency to troubled carriers. Through this Act, the federal government (i.e., taxpayers) will now share the risk of loss to catastrophic events caused by international terrorism with insurers. Besides stabilizing the insurance industry, it also provides protection for the U.S. economy as a whole.

For an event to be covered under the Act, the Secretary of the Treasury must certify the act of terrorism, in concurrence with the Secretary of State and the Attorney General. Losses caused by domestic terrorism (e.g. Oklahoma City) or that occur in the course of a war declared by Congress are not covered by the Act. The Act has a threshold of $5 million before coverage is provided for any property/ casu-

(See "Federal terrorism," page 9)

Does the state need coverage?

By General Counsel

State agencies may be unclear on what course they should take when deliberating whether, and under what circumstances, to purchase terrorism insurance and the impact of the federal Terrorism Risk Insurance Act of 2002 (the Act) on this decision.

The "New Terrorism Insurance Starts" article in this issue of *Risk-Tex* discusses this subject and offers some guidance, as well as a succinct summary of the Act.

Additionally, SORM will field questions from, will consult with, and make a recommendation to any agency considering purchase of this insurance. Questions, preferably in writing, should be directed to the Bonds and Insurance section of SORM, which may be contacted at bonds.insurance@sorm.state.tx.us.

In making its recommendation, SORM will look to and

(See "Contact SORM," page 5)

Agencies need continuity plans

By Roger Thormahlen

Contrary to popular belief, the need for business survivability and continuity management came to the forefront for governmental entities and private businesses before Sept. 11, 2001. In June 2001, Tropical Storm Allison dumped 37 inches of rain over five days in east Harris County. Flooding caused millions of dollars of loss in property damage.

In a disaster, government agencies risk the loss of revenue and the capacity to provide critical services to the public. Most state agencies have an emergency response plan, and the Department of Information Resources (DIR) recommends all Texas state agencies have a Business Continuity Plan (BCP) for information resources. Unfortunately, the majority of these plans are actually Disaster Recovery Plans. Beneficial these plans may be, they should not be confused with a comprehensive Business Continuity Plan. Disaster Recovery Plans do lay the important groundwork for restoring core business and technical functions of an organization; however, they often overlook other crucial variables that may be experienced in times of a crisis.

For state agencies to continue to provide their services to the public, they will need extensive pre-disaster planning for business (government) continuity and establishment of strategic alliances with other state agencies to share facilities and resources. With this pre-disaster planning, critical agency functions continue to be delivered with few functions being delayed. A comprehensive Texas BCP would supplement the Department of Public Safety's "Comprehensive Emergency Management Program."

The Texas DIR, the state's information technology agency, has traditionally been the agency dealing with disaster recovery. However, a BCP is not solely an information technology function; it is an agency business function. SORM is taking a leadership role in monitoring the state's risks and is strategically positioned to assist and mentor the state's agencies and universitites in developing BCPs.

As part of this effort, SORM is: currently partnering with DIR to develop guidelines for state agencies to use in developing their BCPs; working with agencies to conduct business impact analyses and BCPs; and, working with affiliated professions such as, Internal Audit, to develop consistency between state agency plans.

Roger Thormahlen is a risk management specialist in the Risk Assessment & Loss Prevention division.

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Surety/notary bond forms available

By Sally Becker

HB 1203 (77th Legislature) amended Section 653 of the Government Code. Accordingly, effective Sept. 1, 2002, "... a state agency may purchase a surety bond for a state officer or employee only if: (1) required by the constitution of the state or by federal law or regulation; (2) required by court order; or (3) approved by the office (SORM)." SORM may approve the purchase if it is warranted by a substantial or unusual risk, or is necessary to protect the State's assets. A surety bond is defined as any bond, including a bond for a notary public.

In order to streamline the approval process, SORM created an application form (SORM-201). The form is available on our website www.sorm.state.tx.us under "Publications/Forms." Send the completed form and any necessary documentation to: Insurance & Bonds Section, State Office of Risk Management, P.O. Box 13777, Austin, TX 78711-3777. If approval is given to purchase the surety bond, payment should be processed using USAS object code 7205.

Notary bonds are handled differently. The purchase of notary bonds will not be approved by SORM for a state employee designated to be a notary. The state provides defense and indemnification to state employees for damages, attorney's fees, and court costs adjudged against them when the damages are based on an act or omission in the course and scope of the person's employment (Civil Practice and Remedies Code Section 104.001). There is no substantial or unusual risk, nor is the bond necessary to protect the State's assets. The process for a new or renewal of a state employee's notary commission without bond can be located on SORM's website under "Publications/Forms." This change does not affect current notaries until their commission expires.

If you have any questions, you can contact Jeff Cox at (512) 936-2942 or jeffrey.cox@sorm.state.tx.us, or myself at (512) 936-1573 or sara.becker@sorm.state.tx.us.

Sally Becker is a risk management specialist in the Risk Assessment & Loss Prevention division.

Smallpox and workers' compensation

By General Counsel

The media has recently given attention to the smallpox vaccination program instituted by the President as a result of the Homeland Security Act. Fears regarding adverse reactions to the vaccine have led to concerns regarding liability for injuries sustained as a result of administering or receiving these vaccines. Section 304 of the Homeland Security Act, effective Jan. 24, 2003, is intended to alleviate liability concerns regarding participation in a federal smallpox vaccination campaign. Section 304 provides a legal remedy against the United States for injury or death attributable to smallpox countermeasure vaccine, other substances used to treat or prevent smallpox, or vaccinia immune globulin.

In brief, Section 304 applies when a smallpox countermeasure is administered pursuant to a declaration by the Secretary of Health and Human Services. An individual injured by a countermeasure (either directly or from exposure to an inoculated person) while the declaration is in effect (or within 30 days after, in case of exposure) may file a claim under Section 304.

State and local health departments and their officials, agents, or employees who distribute or administer countermeasures are covered by Section 304 and are deemed employees of the federal government for these purposes. Federal employees are specifically excluded from coverage under the Texas Workers' Compensation Act.

However, the Centers for Disease Control has interpreted the exclusive remedy clause of Section 304 to mean that workers covered by state workers' compensation statutes who suffer work-related injuries from a countermeasure may be barred from submitting a Section 304 claim if those state laws constitute a legal remedy.

Based in part on the complex interaction between state and federal law, and in part on the categorization of the potential claimant (whether the employee was administering or receiving the vaccine), significant questions have been raised regarding the potentia, unfunded state liability for the payment of such claims, i.e., whether such claims must be filed under and paid pursuant to the Texas Workers' Compensation Act.

These questions will need to be monitored and addressed by both the state and federal government to provide additional guidance. The State Office of Risk Management, Texas Department of Health, Texas Department of Insurance, and Texas Workers' Compensation Commission have met to discuss, and will continue to work to clarify, the potential impact of Section 304 on Texas laws regarding workers' compensation liability.

Insurance program rules 101

By General Counsel

Some state agency personnel involved in their agency's insurance purchasing and/or procurement may have lingering doubts as to the applicability and procedures to be followed under State Office of Risk Management's newly adopted and effective rules for procuring coverage and reporting under insurance policies. This article will attempt to resolve those doubts by offering the following simple explanation of the rules.

The rules apply to all purchases of all types of insurance, except life or health insurance. SORM's rules for purchasing insurance apply to all state agencies covered under Labor Code Chapter 501. This includes all state courts and institutions of higher learning, except Texas Tech University, Texas Tech University Health Sciences Center, or any agency under the direction and control of the board of regents of Texas Tech University and Texas Tech University Health Sciences Center. The University of Texas, Texas A&M University, and the Texas Department of Transportation are not subject to the new insurance rules.

SORM is currently in the process of reviewing various lines of insurance; will increase the number of reviewed and classified lines, and will likewise increase the number of pre-selected and sponsored policies under approved lines.

Under the rules, all insurance lines are divided into two basic types:

(1) those that SORM has reviewed, classified, and posted on its website at www.sorm.state.tx.us; and,

(2) those that SORM has not yet reviewed and classified and thus are conspicuously absent from SORM's website classification scheme.

Once a line is reviewed, SORM will classify it into one of the following three categories.

(1) Approved with Sponsored Policy. This basically means that SORM has reviewed, approved, and offers this line of insurance through a specific vendor(s) under an insurance policy pre-selected by SORM. If SORM offers such a pre-selected policy, it must be purchased by state agencies through the vendor(s) selected by SORM, unless the agency applies via form SORM-201 Insurance Program Form, and receives an exception from SORM.

SORM currently offers only one such policy: Directors' and Officers' Liability insurance (www.sorm.state.tx.us/D&O/DirectorAndOfficers.htm). Apply 15 days before the inception date of any sponsored policy. After review, SORM will obtain a quote from the vendor; e.g., in the case of Directors' and Officers' Liability insurance, Arthur J. Gallagher/AIG, and forward it to the agency.

(2) Approved Without Sponsored Policy. This classification is reserved for lines of insurance that SORM has reviewed and approved, but that SORM does not require purchase from particular vendor(s) under a particular policy. Agencies apply to SORM to purchase policies under these approved lines. Once the purchase of the line is authorized for a particular agency, the agency conducts its own marked research and procures the insurance from the open market from a vendor of its choice. Apply 30 days before the inception date of the proposed policy.

(3) Prohibited, Except as Authorized Under 28 TAC §252.305. These are lines that SORM has reviewed and determined to be generally of no use to state agencies. However, agencies may still apply to SORM for an exception to purchase an otherwise prohibited policy. The SORM-201 application must be submitted 45 days before the policy is effective.

For the purchase of a policy under a line not yet reviewed by SORM and thus not yet classified, the procurement procedure, except for the deadline, is the same as for policies under reviewed lines. Agencies must submit a completed SORM-201 form to SORM's Bonds and Insurance section, bonds.insurance@sorm.state.tx.us. Submit the SORM-201 not later than 30 days before the intended purchase is scheduled to occur, per §252.307 Reporting Purchases of Insurance.

In order to purchase any insurance policy from any line of insurance, agencies must demonstrate one of the following:

(1) unique exposures;

(2) that the purchase is necessary because of substantial or unusual risk of loss; or,

(3) that the purchase is necessary to protect the interests of the state.

This is regardless of whether the line has been reviewed or not, except from a line approved with sponsored policy, agencies, when submitting their SORM-201 form.

The remainder of the reporting requirements under Subchapter C concern: reporting losses and claims to SORM and to the appropriate attorney general under the Civil Practice and Remedies Code; cooperation with SORM and insurance companies in good faith to investigate and handle claims; and, reasonable fulfillment of duties under the policies.

To view the new insurance rules in the Texas Administrative Code, go to http://info.sos.state.tx.us/pub/plsql/readtac$ext.ViewTAC?tac_view=5&ti=28&pt=4&ch=252&sch=C&rl=Y.

Preventing strains and sprains

By Sam Arant

Strain and sprain, or "soft-tissue," injuries account for the largest number of workers' compensation claims and workers' compensation claim dollars. Strains are injuries that involve the stretching or tearing of muscle tendons. Sprains are injuries that involve the stretching or tearing of ligaments. These "soft-tissue" injuries are often caused by lifting, pushing, pulling, or overreaching and usually affect the back, shoulders, or arms. Although it only takes a moment to cause one of these "soft-tissue" injuries, it may take many days or months to heal.

How can your agency or university prevent these "soft-tissue" injuries? The following is a list of suggested prevention measures.

Perform a Job Safety Analysis

A job safety analysis will identify material or patient handling hazards. Use mechanical handling assistance devices or tools instead of manual lifts.

Practice Proper Lifting Techniques, if Required

Before lifting, consider the weight, size, and shape of the load. If one employee cannot handle the load, obtain assistance from another employee or break the load down into smaller loads.

Carry the Load Correctly

Carry the load close to the body, preferably at waist level. Avoid bending and twisting. When using a mechanical lifting device, ensure the device works properly before placing a load on the device.

Avoid Awkward Positions and Overreaching

Employees working for long periods of time in awkward, bent-over, or twisted positions can strain or sprain body parts. Employees should work as close to the work area or task as possible and should perform all tasks between the shoulders and waist, with the waist being the preferred height.

Encourage Employees to be Physically Fit

Good physical condition is important in avoiding "soft-tissue" injuries. Muscles and ligaments that have weakened over time from exercise or age are more susceptible to strain and sprain injuries than "fit" muscles and ligaments. Perform stretching exercises daily and prior to any manual lift.

Additional "soft-tissue" injury prevention suggestions and comments are welcome. Please send your suggestions or comments to Sam Arant at (512) 936-2926 or samuel.arant@sorm.state.tx.us.

Sam Arant in a risk management specialist in the Risk Assessment & Loss Prevention division.

By the numbers

The following is a list of strain and sprain injury statistics.

- 33% of FY 02 state agency claims involve strains and sprains: 2,131 claims of 6,439 total claims.
- 35% of FY 02 state agency claim dollars involve strain and sprain injuries: $23.9 million of $67.5 million.
- 32% of state agency claims greater than $100,000 are strain and sprain injuries.
- 43% of U.S. injuries in 2000 involve strains and sprains.
- 31% of U.S. strain and sprain injuries in 2000 are in the 35 to 44 age group.
- 32% of U.S. strain and sprain injuries in 2000 occur within 1 to 5 years of employment.
- 20% of U.S. strain and sprain injuries in 2000 involve 31 days or more away from work.

Contact SORM about terrorism insurance

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consider some of the major factors to be: the proximity of the agency in relation to potential targets of terrorist attacks; the cost of the insurance premiums and the conditions, terms, and amount of the coverage offered; the threat level and alert status at the time the recommendation is requested and made; and the relative priority of the state function assigned to the agency. SORM will make its recommendation on a case-by-case basis considering each individual agency's needs in relation to the aforementioned factors and other considerations. SORM has not yet reviewed the casualty and liability line of insurance dealing with terrorism. Therefore, SORM has neither generally approved nor disapproved this line of insurance and does not offer a sponsored policy covering such events.

Also in this issue of *Risk-Tex* is an article discussing the extent of state vs. federal liability for smallpox vaccinations administered under Section 304 of the Homeland Security Act.

Assessment program

Factors, weighting modified for FY '03

By Stuart B. Cargile

By the numbers	
FY 2002 Projected Claim Payments (as of 12/00)	$73,459,000
Risk Management FY 2002 Appropriation	$1,707,709

Total FY 2002 Assessments	**$75,166,709**
Actual FY 2002 Claim Payments	$70,892,242
Risk Management FY 2002 Expenditures	$1,707,709

Total FY 2002 Actual Costs	$72,599,951
FY 2002 Excess	$2,566,758
Projected FY 2003 Claim Payments (as of 11/02)	$72,345,000
FY 2002 Collected Overage	($2,566,758)
Risk Management FY 2003 Appropriation	$1,707,709

Total FY 2003 Assessments	**$71,485,951**

Before the 77th Legislature, payments for workers' compensation were funded by a direct general revenue appropriation for 75 percent of projected claim costs for the biennium with the remaining 25 percent paid by the state agencies. For at least the past decade, the biennial appropriation was insufficient and a supplemental appropriation was necessary to fill the gap between expected and actual costs. This system provided little incentive for state agencies to curb their losses or improve their safety controls. Additionally, small agencies with a catastrophic event could be forced to expend more than their agency's entire budget on a workers' compensation claim. House Bill 2976 not only made agencies more responsible for their workers' compensation costs, but created an assessment program that would cap the damages applicable to small state agencies.

The goal of the assessment program is to provide agencies with an incentive to reduce injuries to state workers. In addition, this program offers a number of significant advantages over the former system of agencies paying "their 25 percent." The assessment process will: give agencies greater control over their budgets by making their workers' compensation costs more predictable through assessments; cushion the effects of catastrophic losses on individual state agencies by pooling risks; and, provide agencies with compelling incentives to promote office-place safety and reduce claims.

Because HB 2976 was passed simultaneously with the FY 2002-2003 budget, the budget did not account for the change in how compensation costs would be paid for. Therefore, included in all state agencies' budgets was 25 percent for all estimated costs and the cost for the interagency contract with SORM for the risk management program. SORM was appropriated 75 percent of the estimated workers' compensation costs. To handle the interim period, the 75 percent is calculated via formula to be redistributed (reallocated) to all agencies for the additional general revenue costs due to the implementation of the program. This process will occur during both FY 2002 and FY 2003. Beginning in FY 2004, SORM will not be directly appropriated any money for workers' compensation claims.

SORM began this process with full knowledge of how difficult it would be to design a program and use a formula which would be universally acceptable to agencies. SORM formed an inter-agency workgroup to assist and comment on the design of the current assessment plan. The workgroup consisted of representatives from a diverse group of agencies and universities, who all had the opportunity to shape and comment on the rules of the program. The assessment program for FY 2002 allocated the costs of workers' compensation among agencies based upon payroll (20 percent), injury frequency rate (40 percent), and actual cash basis claims costs (40 percent). The total assessments were based upon an actuarial projection of claim payments of $73,459,000 and the administrative appropriation for risk management services of $1,707,709 for a total of $75,166,709. The actuarial study was performed in December 2000 and was the most recent report at the time of the FY 2002 assessment calculations. SORM intends to contract for mid-year actuarial updates in order to have the most recent projections possible. Actual claim costs from this fund were $67,244,226.75 paid in FY 2002 and an additional $3,648,015.39 was paid in FY 2003 for medical bills received prior to the close of FY 2002 for a total of $70,892,242.14. The remaining $2,566,757.86 will be used to reduce the total needed for collection for FY 2003.

During FY 2002, SORM staff met

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Changes for assessment program

(Continued from page 6)

with many of the covered agencies to explain the assessment program and to address each agency's concerns. As you would expect, agencies' concerns are as unique and varied as their function and funding. Many of the issues were anticipated in the drafting of the program and solutions were sought. While we have been able to address most of the concerns, some of the problems that have been identified by agencies are literally beyond the authority of SORM to resolve.

A number of agencies are facing significant financial impacts to their non-general-revenue funding sources, and we empathize with these agencies. Unfortunately, the ability to subsidize these programs is not within SORM's authority. A major difference in HB 2976 is that rather than relying on self-reporting by the covered agency, the new program has covered agencies pay their assessment in proportion to their payroll by funding source up front. Another major difference is that because of the statewide financial benefits of risk pooling, many agencies have assessments in excess of their average annual costs.

Another issue surrounding the assessment program seems to stem from the basic intent of the program and its formula. Many agencies believe that an individual agency's assessment should be more closely tied to those claim payments made on behalf of that agency. To determine the appropriate balance between the various concerns, SORM created another workgroup to study the program and assessment formula and solicit input from agencies. After several meetings that entertained different models proposed by agencies, SORM developed a modified formula which combined the best elements of the different proposals.

FY 2003 factors and weighting

For FY 2003, the factors and weighting have been modified to:

- payroll (12.5 percent);
- FTEs (12.5 percent);
- number of claims (modified by IFR,15 percent); and,
- actual cash basis claim costs (60 percent).

The modifier applied to the number of claims will be:

- 0.95 for agencies with an IFR of less than 3.5 percent (reducing the cost per claim);
- 1.05 for agencies with an IFR of more than 7.5 percent (increasing the cost per claim); and,
- 1.0 for all others.

For FY 2003, the factors and weighting have been modified to payroll (12.5 percent), FTEs (12.5 percent), number of claims (modified by IFR,15 percent), and actual cash basis claim costs (60 percent). The modifier applied to the number of claims will be 0.95 for agencies with an IFR of less than 3.5 percent (reducing the cost per claim), 1.05 for agencies with an IFR of more than 7.5 percent (increasing the cost per claim), and 1.0 for all others. The total of $71,485,951.14 to be assessed is comprised of an actuarial projection performed in November 2002 of $72,345,000, the carry forward from FY 2002 of $2,566,757.86, and the administrative appropriation for risk management services of $1,707,709.

Additional changes include a modification to the date by which covered agencies must submit requested changes to formula components to SORM and a recalculation of the re-appropriation of the existing claim fund in response to the new formula to make the allocation under the modified formula revenue-neutral for general revenue for program participants in FY 2003. The date for requesting changes to the formula components was moved to March 1 of the year prior to the plan year for the requested changes. This was necessary in order to be able to issue assessment amounts for the following plan year by mid-fourth quarter due to the amount of time required to develop proposed rule changes, receive comments, and finalize the changes. The calculation of the recommended re-appropriation amounts for FY 2003 will be based upon the same percentage of estimated additional costs due to the implementation of the program as the amounts actually re-appropriated for FY 2002. This will facilitate the re-appropriation by staff of the Comptroller's Office because the recommended amounts will already take into account changes in payroll funding between this and the prior biennium.

SORM believes that the changes that resulted from the workgroup have improved a program, which was an excellent concept. SORM looks forward to continuing to work with all agencies to improve safety and reduce injuries to the state workforce.

Stuart B. Cargile is the director of the Accounting division.

Texas State Agencies Safety Awards

SORM recognizes agencies that have effectively reduced their number of injuries. The Gold Award recipients can compete for the Texas State Agency Safety Excellence Award. The FY 2002 Safety Award results are listed to the right.

Fifteen **Gold Awards** for reduction in injury frequency rate (IFR) of 50 percent or more when compared to the average of the previous five years.

Texas State Library and Archives Commission • State Auditor's Office
Texas Department of Insurance • Railroad Commission of Texas
State Office of Risk Mgmt. • Texas Dept. of Economic Development
Health and Human Services Comm. • Texas Animal Health Comm.
Texas Water Development Board • Lamar State College - Orange
Texas Department of Mental Health and Mental Retardation - Central
North Texas State Hospital • Denton State School
Richmond State School • Texas Education Agency

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Thirteen **Silver Awards** for reduction in IFR of 30 percent to 50 percent when compared to the average of the previous five years.

House of Representatives • General Land Office
Texas Rehabilitation Commission • Texas Lottery Commission
Adjutant General's Department • Department of Banking
Angelo State University • University of North Texas
Sul Ross State University • Lamar State College - Port Arthur
University of North Texas Health Science Center at Fort Worth
School for the Blind and Visually Impaired • School for the Deaf

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Twenty-four **Bronze Awards** for reduction in IFR of 10 percent to 30 percent when compared to the average of the previous five years.

Texas Department of Health • Texas Workers' Comp. Commission
Texas Legislative Council • Office of the Governor
Office of the Attorney General • Texas Bldg. and Procurement Comm.
Secretary of State • Texas Commission for the Blind
Teacher Retirement System • Dept. of Housing and Community Affairs
Mexia State School • Kerrville State Hospital • Austin State Hospital
Waco Center for Youth • Big Spring State Hospital
Brenham State School • Texas State Technical College System
University of Houston • Sam Houston State University
Southwest Texas State University • Stephen F. Austin State University
University of Houston - Downtown • Parks and Wildlife Department
State Preservation Board

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In addition, 37 agencies received the **Sustained Safety Performance Award** for small agencies that have no reported injuries for three or more years.

Congratulations to all the winners!

Employee dishonesty coverage

By Sally Becker

SORM is currently evaluating Employee Dishonesty Coverage. Employee dishonesty is the unlawful taking of money, securities, and other property by an employee. Besides the traditional theft of cash, checks, and other property, SORM will be focusing on employee theft through the use of the computer.

These days, there is less and less "cash" payments as many people pay bills and purchase services "on-line" with credit/debit cards. A large number of account receivable/payable transactions are processed through electronic transfers. Today's employee will more likely embezzle by setting up a bogus vendor or misrouting funds, than from physically stealing money.

If a statewide program is feasible, the goal will be to provide coverage consistency while obtaining lower rates to allow agencies to purchase more appropriate limits. This may be a line of insurance agencies have considered but have not pursued. Here is the opportunity to let SORM do the work. Risk managers should have received and completed a survey last December. If you did not receive the survey or if you have any suggestions or comments regarding the coverage, contact Sally Becker at (512) 936-1573 or sara.becker@ sorm.state.tx.us.

Sally Becker is a risk management specialist in the Risk Assessment & Loss Prevention division.

Federal terrorism insurance act signed

(Continued from page 1)

alty losses. The Terrorism Risk Insurance Act of 2002 applies to commercial property, casualty, and workers' compensation coverage. It does not include life, accident and health, malpractice insurance, and personal lines policies such as homeowners' insurance.

Policies currently in force require insurance companies to notify each insured within 90 days of the Act's effective date (11/26/02) of the cost of terrorism coverage. For policies issued during or after the 90-day period, a separate line item identifying the terrorism coverage must be included at the time of offer, purchase, or renewal. Naturally, terrorism coverage will come with a price tag. The Act did not set any limits or provide any guidelines on the rates to be charged by the insurers.

If your existing coverage specifically excluded terrorism-related losses, this provision is now voided. Within 90 days, you will receive an invoice for the additional coverage. It is now your responsibility to accept or decline the insurer's offer to provide terrorism coverage. The intent of the Act is to make terrorism coverage available to every commercial customer. It is now solely up to the insured's management to decide whether to procure terrorism coverage. When the offer for terrorism coverage is received from the insurer, the insured has 30 days to accept or decline the proposal. If a response is not provided to the insurer within 30 days, this will be interpreted as a declination, and the policy will then legally exclude terrorism coverage.

For the risk managers reading this article, the methods and procedures by which the federal government operates under this Act to finance losses is probably not an important issue. Therefore, this article did not discuss these issues. For additional information along these lines, it is suggested that a copy of the Act or a detailed synopsis be obtained and reviewed. The Texas Department of Insurance has provided a commissioner's bulletin (#B-0074-02) that provides information about the Act at www.tdi.state.tx.us/commish/b-0074-2.html.

To the majority of policyholders affected, the key question is, "Do we need this coverage?" Chief executive officers, chief financial officers, and risk managers across the country will need to evaluate potential loss exposure in relation to the likelihood of a terrorist event. This may seem like a daunting task. However, it should be approached in the same manner to purchasing insurance for any exposure to loss. If your business or facility is not an obvious terrorist target, then issues such as the proximity of your location to a possible target should be considered. For example, if your building is very close to a "critical infrastructure" (a power plant, refinery, pipeline, railroad switching yard, bridge complex, etc.), then the possibility of a terrorist incident is higher and coverage may be warranted. If your operation is adjacent to or near a military base, the same determination may apply.

If a determined threat exists, the next step is to evaluate the threat as a high or low risk. It might be a good idea to contact your local municipality, emergency disaster organization, or the Department of Public Safety and gain whatever insights they may be willing to share concerning local terrorist threat assessments. The cost of insurance coverage must then be weighed against the cost of the risk. Unfortunately, the State Office of Risk Management cannot make the purchase or purchase decision for you. SORM will, however, assist in analyzing the threat data collected and the insurer's coverage costs offered, and make recommendations. Because of the wide range of state agency operations and locations, effective analysis must be done on a case-by-case basis.

If you have a question, please contact Sally Becker at (512) 936-1573 or sara.becker@sorm.state.tx.us.

Sally Becker, Jeff Cox, and Curt Krill are in the Risk Assessment & Loss Prevention division.

Employee Spotlight: Curt Krill

Editor's Note: This Employee Spotlight *is an introduction to Curt Krill, a risk management specialist in the Risk Assessment & Loss Prevention division.*

I'm one of those transplanted "Yankees" who arrived in Austin about two and a half years ago and now complains there are too many "out-of-towners" moving here. Originally a native of suburban Chicago, I acclimated myself to the Texas climate by moving to Austin just in time for the record-setting, 113 degree Labor Day of 2000. What an introduction!

My employment at SORM began in early 2001 and is rapidly approaching the end of its second year. Specifically, I serve as a risk management specialist in the Risk Assessment and Loss Prevention (RALP) division. This means I perform on-site assessments of state agency facilities and provide assistance as needed to control insurance losses. Each of the five risk management specialists in RALP is assigned responsibility for one large state agency and a variety of smaller ones. My major agency of responsibility is the Texas Department of Mental Health and Mental Retardation.

As a risk management specialist, I regularly work with the safety specialists and risk managers of diverse state agency worksites all across Texas. This is a challenging yet rewarding position, especially when coupled with the opportunity to share insights and experiences with a knowledgeable group of fellow RALP specialists.

My "compliance" career began more than 20 years ago in the chemical manufacturing industry. I managed the regulatory affairs of several national and international corporations in a variety of facilities throughout North America. These duties included the implementation, maintenance, and oversight of industrial safety programs, environmental compliance activities, and workers' compensation/property insurance loss control programs. My responsibilities have included factories, warehouses, truck fleets, retail stores, and office complexes from coast to coast, including Canada and Puerto Rico.

Curt Krill

Years ago I earned a bachelor's degree in geography and conservation from Western Illinois University in Macomb, Ill. How that led to the life of a regulatory compliance specialist is a story too long for this short article. Basically, I demonstrated a knack for wading through government regulations and developing the appropriate programs to keep my employer compliant with the law. This ability led down an ever-expanding path to duties requiring the talents of a writer, trainer, inspector, problem solver, and contact person. Entertaining organizations such as the Occupational Safety and Health Administration (OSHA), Environmental Protection Agency (EPA), Department of Transportation (DOT), Consumer Product Safety Commission (CPSC), as well as assorted fire departments and insurance companies, introduced me the world of acronyms, abbreviations, and endless governmental legalese. A small sampling of my work experiences might include the writing of warning labels for consumer products and the related material safety data sheets, a successfully contested OSHA citation, mitigation of chemical incidents, allaying the fears of anxious customers when chemical products provided unpleasant experiences, and riding with truck drivers in 18-wheelers to analyze the hazards of their delivery routes. It was often tedious, frequently exciting, and always interesting.

I was transplanted to Texas by a desire to follow the "love of my life" (my wife Irene) back to her home state. I have four children and two grandchildren.

In our spare time, Irene and I enjoy many variations of music, going to movies and shows, reading, traveling (when possible), and sampling countless varieties of food. I miss the regional delicacies of my former home (as well as Da Bears and Da Bulls, etc.), but the opportunities to enjoy the many foods of Texas more than make up for those lost cravings (it also shows in my waistline). I realized my transplantation to Tejas was nearing completion when I acquired a pick-up truck and a pair of cowboy boots. Now, if I could only learn how to keep my lawn alive in the summertime.

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