RevEx Issue #4/5 Subcommittee – Insurance Perspectives

Compare & Contrast ACCP Program versus Private Insurance

- ACCP is currently excess to any costs covered by insurance – Insurance is currently primary protection
- ACCP covers spills that occur anywhere – Insurance typically purchased by commercial ag & farms is limited to premises but would not respond to a discharge site; large commercial ag would do purchase certain limited pollution extensions to mobile equipment and transportation perils (CA9948)
- ACCP maximum $400,000 – Insurance limits range from $5,000 to $25,000 more typical "throw in"
- ACCP does not cover liability claims – Insurance rider /"true pollution" policy available to pick up migration, pre-existing but not purchased voluntarily due to $10,000 minimum annual premium – larger cooperatives and independents are actively currently purchasing these policies currently for bulk storage and operations; family farms can purchase a rider from $800 - $3500 if they meet underwriting criteria
- ACCP spill clean ups reduce exposure to third party liability by prompt reporting and spill clean up
- ACCP does not cover value of the spilled chemicals or business income loss – "true pollution" will
- ACCP responsible person definition very broad (person who owns or controls the spilled chemical, person causing the spill, property owner where ag spill occurred) – Insurance will only respond to the named insured which necessitates more entities and farms to purchase a Pollution Liability policy which would be less efficient monetarily and not achieve the same results
- ACCP accepts risk from 400+ dealership sites; hundreds of on farm storage and in field tanks etc. - Insurance has strict underwriting standards ; charge based on geographic, volume and claim history standards to make a profit and generate surplus for shareholders if public or policy holders if a mutual company; require upgrades and relining for any tank older than ten years; spill protection plans; remote monitoring to avoid adverse selection of undesirable risks
- ACCP pays for clean up at old sites since 1/1/1989 – Insurance will becomes effective when purchased
- ACCP pays for small, frequently losses – Insurance designed actuarially to respond to large less frequent losses
- ACCP triggered bill spills, observations of DATCP, environmental assessment, real estate transactions – Insurance trigged by definition of sudden and accidental loss and not triggered by most circumstances to which ACCP responds; special insurance policy available to cover Known Conditions to facilitate real estate transactions only after the uninsured old contamination discovered and paid for by an insured upon discovery
- ACCP excludes grossly negligent acts – Insurance excludes criminal acts
- ACCP $3,000 deductible for sales less than $2.5 million or $7,500 on high end for commercial ag is very low by insurance standards which range from $1,000 to $5,000 for producers to $100,000 or more for large ag
- In summary, from a true coverage perspective the program predominantly dovetails with insurance in the private sector – not in competition to or redundant with insurance who remains primary if and when purchased for liability or property value reasons to replace value of lost chemicals. When a claim does not occur in private insurance and excess surplus results, it enables the business owner peace of mind of coverage that exists in order to confidently operate his business to remain available and affordable. I would draw a similar parallel to the benefits of a continued presence of the ACCP to its stakeholders.

M3 INSURANCE
Manufacturing & Distribution

<u>Specimen "True Pollution" policy exclusions – (AIG)</u>

II. EXCLUSIONS

1. COMMON EXCLUSIONS - APPLICABLE TO ALL COVERAGES
The following Exclusions apply to all Coverages:
This Policy does not apply to Claims or Loss:
A. ASBESTOS AND LEAD:

B. **CHANGE IN INTENDED USE OR OPERATIONS:**
Based upon or arising from a change in use or a change in operations which is different from the uses or operations identified in writing by the Insured to the Company during the underwriting process or in the application and which materially increases a risk covered hereunder.

C. CONTRACTUAL LIABILITY:
Arising from liability of others assumed by the Insured under any contract or agreement, unless the liability of the Insured would have attached in the absence of such contract or agreement or the contract or agreement is an Insured Contract.

D. CRIMINAL FINES, PENALTIES, OR ASSESSMENTS:
Due to any criminal fines, criminal penalties or criminal assessments.

E. EMPLOYER LIABILITY:
For Bodily Injury sustained by any employee while engaged in employment by any Named Insured, or by any person whose right to assert a Claim against any Named Insured arises by reason of any employment, blood, marital, or any other relationship with such employee. This Exclusion applies:
1. Whether any Named Insured may be responsible as an employer or in any other capacity; or
2. To any obligation to share damages with or repay someone else who must pay damages because of Bodily Injury.

F. IDENTIFIED UNDERGROUND STORAGE TANK:
Arising from a Pollution Condition resulting from an Underground Storage Tank whose existence is known by a Responsible Insured as of the Inception Date and which is located on the Insured Property **<u>unless such Underground Storage Tank is scheduled on the Policy by an Underground Storage Tank Endorsement attached to this Policy.</u>** However, this Exclusion shall not apply to an Underground Storage Tank(s) which was removed prior to the Inception Date.

G. INTENTIONAL NONCOMPLIANCE:
Arising from a Pollution Condition based upon, due to or attributable to any Responsible Insured's intentional, willful or deliberate noncompliance with any statute, regulation, ordinance, administrative complaint, notice of violation, notice letter, executive order, or instruction of any governmental agency or body

H. INTERNAL EXPENSES

I. INSURED vs. INSURED:

J. PRIOR KNOWLEDGE/NON-DISCLOSURE:
<u>Arising from a Pollution Condition existing prior to the Inception Date and known by a Responsible Insured and not disclosed</u>

M3 INSURANCE
Manufacturing & Distribution

Financing of Risk – Insurance related Principles

- ACCP Program is certainly not "insurance" but there may be a few risk financing concepts the committee may wish to contemplate
- Expected Losses – projection of the frequency and or severity of losses based on loss history, probability distributions and statistics; the expected loss projection is commonly referred to as the "loss pick"
- Exposure – a situation, practice or condition that may lead to an adverse financial consequence; an activity or resource; people and assets
  - 8 of 30 New bulk storage facilities represents a reduction in exposure; Are 22 new construction sites they are eligible going to be a trend is going to be off current premises as a result of 94.73 (w)? If so, will this actually represent an increase in exposure based on volume, sales or some other measure?
  - Do the Key Administrative Rules present an increase or decrease in exposure?
  - If so, what is the appropriate measure must be defined for committee to get a feel for the exposure trend actually decreasing or increasing prior to adjusting funding in order to make a "loss pick".
  - While it appears safe to give a holiday given the fund balance based on the expenditures only, changes in exposure should be contemplated to match the risk