

# Underinsurance Headache – for October 2022 WorkBoat Magazine



By Dan Bookham

For October 2022 [WorkBoat Magazine](#)

You cannot escape the headlines: Almost everything is getting more expensive. Supply chain issues, increased demand, workforce shortages and other pressures are driving inflation at a sharp clip, and every industry is affected. And while an uptick in prices might be a boost to one's top line profits, there's obviously a negative impact on the cost of doing business. Insurance is not immune to inflationary pressures either, and most insurance and reinsurance companies continue to look warily at the cost of materials, the time it takes to replace or rebuild property, legal expenses and other factors as they review their books of business. The indications are that American businesses have a large (and self-inflicted) underinsurance headache.

Think about your own operations. How much money would you need to replace a string of damaged or destroyed barges? To repair or replace systems or deck machinery on a tug? To build a new ferry? To bring in replacement containers, reefer points or gensets? To source and replace a dock crane, a warehouse, or even something as basic as bollards? Is the insurance limit you have in place going to cut it?

Additionally, scarcity of materials, labor shortages and transportation & logistics problems have lengthened the time needed to repair or replace damaged property. Under these conditions, it might take two to three times as long to rebuild and reequip a facility or vessel than it took prior to the pandemic. Think about your key assets. How quickly can you get the replacement part or unit from the factory to your facility? How congested is the shipyard orderbook or the construction pipeline in your state? Do you have the relationships that could help you bump your project to the top of the list, or do you have to resign yourself to waiting in line? And at the end of the day, have you factored that into your business income insurance limit?

With all of this in mind, if you aren't talking to your insurance agent about the ongoing inflation in construction and materials costs and longer time horizons on projects you could well find yourself underinsured. The point of your policy is to protect your assets and make you whole in the event of a loss. Proper valuations of the cost to replace or rebuild your assets (including your lost income resulting from a loss) are at the core of making sure your insurance is working for you.

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## **Marine Professional Liability Coverage**



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By Chris Richmond  
For August 2022 [WorkBoat Magazine](#).

A very long time ago when I was captain of an old wooden sailing vessel, I was bringing the boat in to the harbor to tie up to the dock, something that I had done countless times. Except this time when I put the engine in reverse to stop forward movement the boat went ahead. Quickly losing room in the congested harbor, I tried again to engage reverse propulsion, to no avail. A wooden tour boat tied up ahead of me finally stopped my movement. There was season-ending damage.

While my vessel's Hull and P&I policy took care of the damage claim, the Coast Guard felt that I had been derelict in duties as captain and wanted to conduct an admiralty hearing against my license. I now needed professional liability insurance coverage.

Typically used by attorneys, accountants, consultants and real estate brokers, professional liability provides coverage against claims made against professionals who have not performed up to the standards of their profession. This type of liability coverage is also available to licensed mariners. Should a claim occur, and the captain be deemed negligent, he or she could be

sued in addition to the vessel.

Coverage can include defense costs (both against your license, civil legal defense as well as criminal acts defense), coverage for fines and penalties as well as a daily subsistence allowance. It is important to note that professional equipment, such as a personal GPS or similar navigational device, can also be included. Loss of income can be added to compensate for lost wages due to down time resulting from a claim.

Whether you are driving a 6 pack harbor taxi or a blue water tanker, your livelihood requires you to hold a valid USCG license. When you are involved in a claim involving your license, having professional liability coverage to fall back on can both help alleviate the headache of defending yourself and help take care of some defense costs. Have a talk with your marine insurance agent before you need this kind of protection.

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## How to Read Your Insurance Policy



By [Dan Bookham](#) for [WorkBoat](#) magazine, August 2022

After being an avid reader of Workboat for many years it's my

distinct honor to be joining my colleague Chris Richmond as a contributor to the monthly "Insurance Watch" column. For my first go around I figured it makes sense to start with revisiting a basic topic: How to read your insurance policy.

Once you get past various legal notices, billing options and marketing messages, insurance policies have five parts: Declarations, insuring agreements, conditions, exclusions and endorsements. The smart mariner will take the time to review each of these in order, as they define the rights and responsibilities that come with the coverage you purchase.

**Declarations.** This is the what, where, when, by whom and for whom, price and coverage period of the policy. Check to make sure the named insureds are correct, any lenders are shown and that the right coverage lines are in place.

**Insuring agreements.** These explain the coverage you've bought in detail. An "open perils" policy covers everything except those areas covered in the exclusions (more on that below) while a "named perils" policy is for a list of specific things. Depending on the appetite of the insurer, certain additional perils can be agreed to and listed, usually by endorsement (again, more on this below).

**Conditions.** The insurer uses this section to outline what you must do to collaborate with them and in turn what they will do to help you get paid or to defend you in the event of a loss. This section also lays out how to file a claim. Pay close attention to the conditions, ideally before you are scrambling to file a claim, as following the 'rules of the road' in the policy will expedite claims handling and ordinarily lead to a smoother resolution of any call on your insurance coverage.

**Exclusions.** While the word itself fits certain stereotypes of insurance, this section is actually driven by logic and common

sense. You can't deliberately sink your boat or burn your warehouse and expect to get paid, and you can't expect your Hull and P& I coverage to respond to an automobile accident. Exclusions exist to ensure your policy remains affordable, that it covers reasonable risks associated with the appropriate operations and that exposures outside the realm of insurability aren't subject to your policy.

**Endorsements.** These can be used to expand or limit coverage, either at your request or at the discretion of the insurance company. Because a policy is a contract these serve as customized amendments that allow the coverage you buy provide a better fit to your unique operations. Here's where your agent can really earn their salt and why working with agents or brokers with marine experience can make a real difference in the coverage you call on when the chips are down.

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# Not All Marine Surveys are the Same

By Chris Richmond

For July 2022 [WorkBoat Magazine](#).



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Whether you are interested in purchasing a new vessel or have owned the same boat for years chances are at some point you will need a marine survey. Depending on the circumstances and who is requesting the document the survey you receive can vary greatly.

In terms of insurance, when purchasing a new vessel you will almost always need a survey in order to get an underwriter to provide you with coverage. And don't try to use the seller's **pre-listing survey**, because the underwriter most likely will not accept it. The surveyor is working for the party paying him or her to perform inspection, and underwriters want that surveyor to be working for the client who is purchasing the boat. That is why a **pre-purchase survey** is in your best interest.

Also known as a **condition and value survey**, this will be more comprehensive and the surveyor will have your best interests and concerns in mind. You do not want surprises after you have purchased the boat and a condition and value survey will provide more detail on equipment, amenities and will provide a list of recommendations of areas that need to be addressed.

Generally, insurance companies will accept a survey that is within two years old. One thing that companies always ask is if the survey recommendations have been completed. Outstanding recs are not always a show stopper, however. Depending on the severity of the recs you may be able to delay addressing them for a while. If you do have some that are significant and could affect the safety of the vessel, see if the underwriter will still provide coverage but no navigation. You can then have insurance on your vessel while she is laid up and problems are being addressed.

Should you have an accident and the insurance company gets involved, then the adjustor will most likely request a **damage survey**. The surveyor becomes the eyes and ears for the insurance company and is tasked with assessing the extent of damage to the vessel and attempting to determine what happened and why. This becomes very important when the adjuster decides on the payout of the claim – because the surveyor will assist in determining if the claim is covered or not.

A **fit for trip survey** can be requested by an underwriter to determine if a vessel is sound enough to make a voyage from one port to another. We had a client who was in the midst of a refit. The vessel needed to travel to another yard in a neighboring state to complete the job. The underwriter wanted some reassurance that the boat was capable of making the trip, hence the call for this type of survey.

The survey is one of the most important documents that an underwriter will review for your boat. If the insurance company requests and pays for the survey, don't expect to see the complete document. The company owns the survey and most likely will not give it to you. This can save you some money in the short run but if you want to shop your boat to other markets you will need to pay for a new survey. If you have a surveyor you like, stick with him or her. He or she will be familiar with your vessel and will be more efficient in future surveys, saving you money. And finally, have a conversation with your surveyor before they step on board your boat to make sure you are both on the same page with what you are asking them to report on because you don't want any surprises after they are done.

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# Why Loss Control is Important

By Chris Richmond

for May 2022 [WorkBoat Magazine](#)



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A busy ship repair facility we work with recently had a follow up visit from their USL&H insurance carrier. Loss control had visited the client previously and this visit was designed to accomplish three goals: It was a chance for key players to meet in person; facility personnel could provide an update on previously noted deficiencies and the loss control manager could view the yard during the not so kind New England winter.

As you know, the premium for USL&H is based on jobs performed as well as payroll. Generally the more employees a company has the more premium the company will pay. Loss history is also a factor: The more paid claims a company incurs the higher the premium will be. It is in everyone's best interest – from the employee staying safe to the shipyard paying the premium to the

insurance company paying the claims – to keep claims to a minimum. This is where loss control comes in.

The visit made clear where safety improvements had been made and where they still needed to be made. Among the deficiencies observed were missing safety guards on machinery, chaffed power cords and cluttered walkways. A key area of improvement to the yard was the installation of metal grating on gangways to the ships for better grip and to help minimize slips in the winter months.

A follow up report was provided to the client's safety manager with a request for written verification of completion of the safety recommendations within 45 days. An offer to provide safety trainings on site was extended. These visits can be fine-tuned to the client's specific needs. They are no cost and are a great opportunity to remind employees of their stake in the workplace safety. Management can use a training to echo the message that safety keeps claims down, which keeps premiums down, all of which can help make the company more profitable.

A visit from a loss control manager is something to look forward to – not to regret. Input and involvement from your insurance company can help keep your premiums down. If you haven't had a loss control site visit recently, reach out and request one. It's free expert advice, designed to help to improve safety and save you money in the long run. What's not to like?

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# Building a Boat? You Need Hull Builder's Risk Insurance

By [Chris Richmond](#)

Originally Submitted to [WorkBoat Magazine](#)

Building boats can be the primary part of your business or just an occasional project. Regardless of how many or how often you do this, one thing is common: You will need a Hull Builders Risk insurance policy. And don't think that this applies only to a new build. A vessel undergoing a major refit can be covered under this as well. The policy can be extended to cover not only the hull but also material and equipment that has not yet been installed on the vessel.

For the occasional new hull build or the major refit, your policy can be written on single hull basis. For yards in the business of building boats, there is an open builders risk policy for multiple boats.

Valuation of the hull can be calculated two ways. It can be written on the completed value of vessel, or for larger vessels it can be a monthly reporting schedule of the unfinished project which gradually increases to the completed value.

Some policies offer buyback coverage for faulty workmanship. There is a condition to conduct inspections during the build and report any findings to the your underwriter. Keep in mind that claims due to faulty design are not covered. You will want to a professional liability policy for this.

Additional coverages which can be added to the policy includes:

- Delivery of bare hull to yard to be finished off
- Launching of vessel

- Sea trials of vessel
- Delivery of completed boat to end user

Protection and Indemnity limits are added to cover liability claims due to injury on or around the vessel during the construction process as well as after the vessel has been launched and is conducting sea trials or delivery. And if you are providing crew on board after the vessel has been launched, be sure to have the policy amended to reflect this additional risk.

Whether you are building the vessel for a client or having one built for your own use, the day of launching is always a memorable occasion and one to celebrate. Be sure to do your due diligence beforehand to properly cover potential risks involved with your project to help make this day a great one.

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# Why a Marine Business Needs Commercial Auto Insurance

By [Chris Richmond](#)

For [WorkBoat Magazine](#)

Recently an insured contacted us to ask if he had coverage for rental cars being driven by his crew members. Of course this led to many more questions, as well as the insurance agent's favorite response: "Maybe, depends on what you are doing. Let's talk about it."

Our insured had just a commercial hull with P&I policy. I explained that if his crew members were using the vehicle to run

errands for the boat – in service to the ship – then there could be coverage for remedies should the crew member be injured while driving. But should the crew member be involved in an accident, there would be no coverage for any damage to the vehicle or for third party damages. This would fall under vehicles coverage.

There are several ways to take care of this with a rented vehicle. First is to take the coverages offered by the rental company. While no one likes to have extra fees added to an already expensive bill, this is often the easiest solution should there be an accident. Adding Hired and Non-Owned Auto coverage is another solution. While there would be no coverage for damage to the rented vehicle or the employee driving it , there would be coverage for the vehicle hit or the driver of that car.

The non-owned portion of this coverage comes into play when an employee uses their own (personal ) vehicle for company work. While the insurance on the vehicle is primary, should the claim exceed the limits the employee has, then the non-owned coverage would kick in. Also if your business ends up being dragged into the claim and you get sued, then your non-owned coverage will respond as well.

Hired and non-owned auto can usually be added to a liability policy, an existing commercial auto policy or, if needed, written as a stand-alone policy.

One other area to consider are trailers owned by the business. These need to be specifically listed on a commercial automobile policy for liability coverage to respond. And remember, the liability of the trailer follows whatever vehicle it is attached to. If you have an employee towing a company-owned trailer with his or her personal vehicle and the trailer causes a claim, then the employee's insurance will be the primary coverage.

Having an employee run down to the marine supply store in their own vehicle can be a common task but can leave you vulnerable to unforeseen risks. Have a chat with your agent to help plug those holes.

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# Maritime Employers Liability – What It Is and Why You Need It

By [Chris Richmond](#)

For [WorkBoat Magazine](#)

Recently we were reviewing insurance coverage with a local marine contractor. Through the course of our conversation, we learned that one of their employees had been operating a crane aboard another contractor's barge for that contractor's project. While this happened only rarely, it did open up a big gap in their coverage. Fortunately, there was a solution: Maritime Employers Liability.

Commercial vessels will carry Protection and Indemnity. As we know, P&I provides coverage for the insured's crew members. But this only applies to crew members who are employed by the vessel owner or operator. Your employees working on board someone else's vessel would be covered under an MEL. The MEL follows your employees while they are on non-owned vessels. Coverage under the policy can include:

- Jones Act
- Death on the High Seas Act
- General Maritime Law of the United States

- Maintenance, Cure and Wages

One important thing to remember is that while an MEL policy will provide coverage for the benefits listed above it does not include a workers compensation policy. You will still need to keep in force coverage under either you state workers compensation policy or your USL&H. One nice thing about an MEL is that you can often have it added to your existing USL&H policy.

MEL is rated differently than typical crew members on your Protection & Indemnity policy. Those crew members are charged per crew for a fixed price, usually between \$750 and \$1,000 per head. MEL not only looks at how many employees you have working on non-owned vessels but also at your total number of employees as well as payroll associated with both wet and dry exposures. Payroll also needs to be broken out between USL&H, state act (workers compensation) and Jones Act.

There is much more underwriting that goes into an MEL quote as compared with crew on an owned vessel. The premium associated with the MEL policy will vary based on the payroll associated with the exposure – but be prepared to pay at least \$5,000 as there is generally a minimum premium with this coverage.

When you send your employees out on a job you want to make sure that they are properly prepared and protected. Do not forget to protect yourself, as well. Without a Maritime Employers Liability policy you could be leaving yourself unprotected against a major claim.

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# Why It's Important Not to Overlook Cargo Insurance

By [Chris Richmond](#)

Originally Submitted to [WorkBoat Magazine](#)

I met recently with a client who operates a small water taxi service. I noticed several crates in the bed of his truck and learned he was transporting them to one of our local islands. While this seemed like an innocent risk to the insured, there was one glaring problem: His policy excluded coverage for cargo.

While marine policies will have limited coverage for passengers' personal effects, there is often an exclusion attached for cargo. This can be added by endorsement with a sublimit of coverage, with premium based on the amount of coverage. Be sure to understand the value of the cargo you are going to be transporting, because your policy will only provide the limits you have paid for. You will also have a separate deductible for cargo claims. A good practice is to have a freight contract with your customer which determines the value of the items to be shipped. This can help avoid any surprises in case of a loss.

Take a look at how the cargo has been packed. We all know things can get rough and wet on the water. You should have an established set of guidelines regarding packaging and you should reserve the right to refuse the right to ship an improperly packaged item. You can't control the weather and you don't want to have to pay for someone else's poor work.

As with all insurance, the cargo endorsement will come with exclusions. Be sure to review these with your agent to make sure everyone is on the same page. Negotiations with an underwriter can often result in more favorable coverage.



Here in Maine, small cargo vessels servicing local island communities are lifeblood to those islands. Often the families operating them have been doing so for many generations. The same is true of many coastal and riverine cargo operations throughout the U.S. As the nature of your business changes and develops, so too should your approach to risk management. Talk to your agent and see if your policy needs to be updated.

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# Rein in Workers' Compensation Insurance Costs

By [Chris Richmond](#)

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We've spent some time in this space discussing the Jones Act, which covers your crew on owned vessels and USL&H, which responds to your employees who meet the situs and status of the federal act. Now let's talk about another layer of protection for employees: State workers compensation insurance, which for many smaller yards can be a primary coverage for employees.

The action of every employee at a yard can have a dramatic effect on the cost of a workers compensation insurance policy.

Here's why:

A workers compensation base premium is calculated by two things: Job classifications for each employee (based on the work they are doing) and the payroll associated with each classification. Your premium is multiplied by your experience mod. A neutral experience mod is 1.0. With yards experiencing frequent or

expensive claims, the experience mod will increase, as will your premium. For yards experiencing no claims, this number will go down – and so will your premium.

The calculation of an experience mod is based on the prior three years of policy period. When a claim occurs, you can reduce the negative impact of an injured employee on your experience mod by getting them back to work as soon as possible. Medical-only claims are weighted far less than indemnity benefits claims.

Aside from telling your employees to be careful and not get hurt there are other ways to help create a safer work space. For starters, contact your workers compensation company. They will have all sorts of workshops and webinars to assist you, very often if not always, at no cost to you. Schedule a visit with their loss control department and have one of their safety management consultants do a walk thru of your facility. This can turn in to an annual event and can help you track improvements or areas of concern to address. Your state department of labor will also have consultation services available. By getting a new set of eyes on your facility and workforce simple improvements can be made that can have dramatic effects in a safer work environment.

Finally, review your experience mod work sheet with your agent. Mistakes in coding can have a negative effect to your policy. Recently we were reviewing a boatyard's report and noticed a claim that should have been coded as medical-only had been mis-coded as indemnity. This had a dramatic effect to the mod in the wrong direction and once corrected reduced the insured's premium. Have a chat with your agent, it could save you some money.