

11. Environmental, Health and Safety Issues

- The mission of the Environmental, Health and Safety section is to protect the health and safety of Port employees, while ensuring that the diverse activities of the Port and its tenants and the management of Port property is conducted in an environmentally sound manner.
- At the request of the Budget Analyst, the PUC's Bureau of Environmental Regulation and Management (BERM) conducted independent environmental and health and safety inspections of Port facilities on October 9, 2003 and on February 5, 2004. The October 9 inspection of the Port Maintenance facility at Pier 50, Shed D, was unannounced and revealed major Storm Water – Industrial Management and Health and Safety compliance deficiencies. The re-inspection of Pier 50D on February 5, 2004 revealed significant improvement. However, given the state of the Health and Safety program at Pier 50D prior to that inspection, continued diligence is required to ensure that the prior deficiencies do not re-occur. The inspection of February 5, 2004 included evaluations of Port facilities at Pier 80 and at Pier 90. Of particular concern is the condition of Pier 90, which is a staging area for the Pile Workers and as stated in the PUC Inspector's evaluation, "Areas of the pier are very deteriorated and employees could fall through unguarded holes."
- The Port leased property at Pier 92 to Bay Area Tank and Marine (BATM) in early 1989 with a permitted use of BATM accepting contaminated soil. According to the Port, BATM represented that only soil contaminated with petroleum at non-hazardous levels would be accepted. The Port did not require a removal bond in the agreement. BATM ceased operations in late 1996. Subsequent soil testing and discussions with East Bay Municipal Water District and the City's Department of Public Works resulted in the Port becoming owner of approximately 15,000 cubic yards of hazardous waste. The hazardous waste was finally disposed of in March of 2003 at a cost to the Port of \$1,457,219. In September of 2002, the California Environmental Protection Agency, Department of Toxic Substances Control, issued a Notice of Violation regarding the soil stored at Pier 92 and, according to the Assistant Deputy Director for Environmental, Health and Safety, is in the process of levying monetary penalties against the Port. In order to guard against a recurrence of this type or similarly imposed environmental liability, the Real Estate Division should be required to obtain the concurrence of the Environmental, Health and Safety section on all leases, excepting leases of office space.

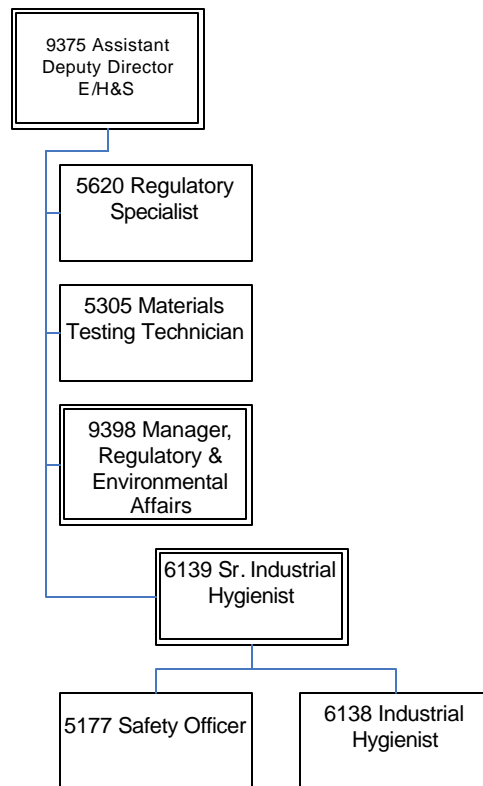
- **A potential hazardous waste condition exists at the Pacific Cement Leasehold and adjacent Pier 80 backlands. The tenant, Pacific Cement, has stockpiled concrete and other construction-related debris in a parcel directly south and adjacent to Pacific Cement’s leasehold, without Port authorization. Further, Pacific Cement has performed unauthorized grading at the debris site without a required Port permit. According to Port personnel, the grading extends over five acres, which requires a Storm Water Pollution Prevention Plan. In response to an inquiry concerning what actions the Port had taken to move Pacific Cement into compliance with environmental regulations, the Environmental, Health and Safety section responded as follows: “Port staff formally notified Pacific Cement on April 18, 2002 of its compliance status relative to the requirements of the Industrial Storm Water Permit. . . There have been informal discussions between Port and RWQCB [Regional Water Quality Control Board] staff regarding options for enforcement, but to date, no action has occurred due in part to concern regarding Pacific Cement’s political influence at the state and local level. Port staff and the San Francisco Department of Public Health (SFDPH) have responded to a number of hazardous materials spills at the site. . . . Port E/H&S (Environmental, Health and Safety) staff has attempted on repeated occasions to prevail upon Pacific Cement to cease illegal disposal of concrete waste and soil on Port property.” The Executive Director of the Port of San Francisco should, as a matter of the highest priority, ensure that Pacific Cement is brought into compliance with environmental regulations, if necessary, by appropriate legal action.**
- **In response to an inquiry concerning whether the Port is in any way liable for Pacific Cement’s environmental compliance, the Environmental, Health and Safety section stated that: “Pacific Cement’s lack of compliance with the Industrial Storm Water Permit put the Port at risk for enforcement by the state, and as a secondary party to potential citizen’s lawsuits. Similarly, the Port is also liable for materials dumped or currently stored in violation of BCDC regulations. The Port may also be liable if any of the uncharacterized materials imported to the property by Pacific Cement are found at some future date to be contaminated.”**
- **Based on discussions with current and past members of the Environmental, Health and Safety staff, evaluations of Health and Safety, Storm Water Pollution Prevention, and Hazardous Material/Hazardous Waste programs at selected Port sites, the responses of the Environmental, Health and Safety section to environmental, health and safety inquiries, the Budget Analyst has concluded that Environmental, Health and Safety programs and issues have not been given the priority that they deserve. In addition to specific Environmental, Health and Safety program recommendations, the Budget Analyst has made recommendations for enhancing Environmental, Health and Safety programs overall.**

Environmental, Health and Safety Mission and Organization

The mission of the Environmental, Health and Safety section is to protect the health and safety of Port employees, while ensuring that the diverse activities of the Port and its tenants and the management of Port property is conducted in an environmentally sound manner. The seven-staff person Environmental, Health and Safety section is assigned to the Engineering and Maintenance Division. Four of the seven staff members, including the classification 9375, Assistant Deputy Director, are responsible for planning and implementing the section's environmental programs and the remaining three staff members administer the Port's health and safety programs. An organizational chart of the section is shown below.

Exhibit 11.1

Environmental, Health and Safety Section



Concerning environmental responsibilities, the classification 9375, Assistant Deputy Director, whose primary expertise is in the environmental area, supervises the section and administers a variety of environmental programs including site investigation and remediation, Port and tenants' compliance, and supporting environmental aspects of all other Port Divisions' activities. The classification 9398, Manager, Regulatory & Environmental Affairs, is primarily responsible for materials testing and securing regulatory approvals for the Port's dredging activities and for general construction permitting, as well as supporting Port operations at Hyde Street Harbor/Fisherman's Wharf and development projects. The classification 5620, Regulatory Specialist, is

primarily responsible for administering the Port’s municipal, industrial, and construction storm water programs, toxic substances control, and sewer discharges. The classification 5305, Materials Testing Technician, is assigned to administer the Port’s Hazardous Materials Use/Storage, Hazardous Waste Generator, and Used Oil Recycling Programs.

Responsibilities of the health and safety side of Environmental, Health and Safety pertain only to Port employees although, according to the Assistant Deputy Director, the work of the Health and Safety unit also addresses potential health and safety risks to Port tenants and contractors. The classification 6139, Sr. Industrial Hygienist, is responsible for development and implementation of the Port’s employee health and safety programs, including conducting and documenting health and safety training, evaluating hazards, and implementing specific programs such as respiratory protection, medical monitoring, and hearing conservation. The classification 5177, Safety Officer, is responsible for the Workers’ Compensation and Employee Health and Safety Programs and the classification 6138, Industrial Hygienist, position administers both environmental and health and safety programs, including lead and asbestos management and the Integrated Pest Management Program. The Health and Safety unit is also responsible for coordinating emergency response planning for the Port, including plan revision and training.

Environmental, Health and Safety Responsibilities

Table 11.1 below contains a listing of the major environmental and the major health and safety programs administered by the Environmental, Health and Safety section

Table 11.1
Environmental, Health and Safety Programs

Environmental	Health and Safety
Hazardous Materials Use/Storage	Workers Compensation
Hazardous Waste Generation/ Storage	Employee Health and Safety
Storm Water – Municipal	Ergonomics
Storm Water – Industrial	Medical Surveillance Program
Storm Water – Construction	Integrated Pest Management Program
Dredging	Respiratory Protection Program
Environmental Windows	Injury and Illness Prevention Program
Ballast Water	Hazard Communication Program
General Construction Permitting – USACE	Hearing Conservation Program
General Construction Permitting – RWQCB & BCDC	Confined Space Program
As-Treated Wood	Crane Safety
Maher Ordinance	Lockout/Tagout
Solid Waste Landfill Closure	Machine Guarding
PCB Removal, Cleanup	Emergency Operations Plan Coordination
Asbestos	
Lead Paint	

Environmental, Health and Safety Issues

Pier 92 lease to Bay Area Tank and Marine (BATM)

The Port leased property at Pier 92 to Bay Area Tank and Marine (BATM) in early 1989 with a permitted use of BATM accepting contaminated soil. According to the Port, BATM represented that only soil contaminated with petroleum at non-hazardous levels would be accepted. The Port did not require a removal bond in the agreement. BATM ceased operations in late 1996. Subsequent soil testing and discussions with East Bay Municipal Water District and the City's Department of Public Works resulted in the Port becoming owner of approximately 15,000 cubic yards of hazardous waste. The hazardous waste was finally disposed of in March of 2003 at a cost to the Port of \$1,457,219. In September of 2002, the California Environmental Protection Agency, Department of Toxic Substances Control, issued a Notice of Violation regarding the soil stored at Pier 92 and is reportedly in the process of levying monetary penalties against the Port. In order to guard against a recurrence of this type or similarly imposed environmental liability, the Real Estate Division should be required to obtain the concurrence of the Environmental, Health and Safety section on all leases, excepting leases of office space. Scrutiny of proposed leases by the Environmental, Health and Safety section should reduce or eliminate the financial risks of environmental penalties and costs of remediation.

Pacific Cement Lease

A potential hazardous waste condition exists at the Pacific Cement Leasehold and adjacent Pier 80 backlands. The tenant, Pacific Cement, has stockpiled concrete and other construction-related debris in a parcel directly south and adjacent to Pacific Cement's leasehold, without Port authorization. Further, Pacific Cement has performed unauthorized grading at the debris site without a required Port permit. According to Port personnel, the grading extends over five acres, which requires a Storm Water Pollution Prevention Plan.

The Environmental, Health and Safety section responded to a Budget Analyst inquiry concerning whether the Pacific Cement facility at Pier 80 is currently in compliance with applicable local, State and Federal environmental laws and regulations, as follows:

The Pacific Cement facility at Pier 80 is not currently in compliance with applicable laws and regulations. Regulatory compliance issues specific to Pacific Cement's Pier 80 facility include:

1. Failure to seek coverage under the Statewide General Permit for Discharges Associated with Industrial Activity (Industrial Storm Water Permit).
2. Violation of state and local laws pertaining to hazardous materials management. Pacific Cement has been cited on several occasions during the past several years for hazardous materials spills.

3. Operating within the 100-foot shoreline band defined by the San Francisco Bay Conservation and Development Commission (BCDC) without notification or authorization.
4. Importing a significant quantity of uncharacterized materials (soil and debris) on to Port property without permits or authorization.

In response to an inquiry concerning what actions the Port had taken to move Pacific Cement into compliance with environmental regulations, the Environmental, Health and Safety section stated:

Port staff formally notified Pacific Cement on April 18, 2002 of its compliance status relative to the requirements of the Industrial Storm Water Permit. . . . There have been informal discussions between Port and RWQCB [Regional Water Quality Control Board] staff regarding options for enforcement, but to date, no action has occurred due in part to concern regarding Pacific Cement's political influence at the state and local level. Port staff and the San Francisco Department of Public Health (SFDPH) have responded to a number of hazardous materials spills at the site. . . . Port E/H&S staff has attempted on repeated occasions to prevail upon Pacific Cement to cease illegal disposal of concrete waste and soil on Port property.

The City's Department of Public Health has cited Pacific Cement for violation of hazardous waste and materials storage regulations, and conducted a preliminary hearing on March 30, 2004, regarding Pacific Cement's history of continuing violations. The Department of Public Health issued a fine to Pacific Cement, in an amount not yet determined, and will enter into a stipulated agreement with Pacific Cement.

The Executive Director of the Port of San Francisco should, as a matter of the highest priority, ensure that Pacific Cement is brought into compliance with environmental regulations, if necessary, by appropriate legal action, in order to reduce or eliminate the financial risk of penalties and costs of remediation imposed on the Port.

Pier 70 PCBs

The Port's FY 2003-2004 Capital Plan shows that \$100,000 has been allocated for the cleanup of polychlorinated biphenyl (PCB) contaminated soil on Port Property. According to the Environmental, Health and Safety section, soil contamination occurred as a result of vandalism to a small transformer building located near the northwest end of Pier 70.

In response to Budget Analyst inquiries, the Environmental, Health and Safety section has submitted the following statements concerning the presence and status of PCBs on Port property:

The Port took possession of a number of transformers at Pier 70 after acquiring property from Bethlehem Steel Corporation in the 1970s. The Port itself has never made use of the transformers. San Francisco Drydock uses a number of the transformers at Pier 70 as part of its shipyard crane operation. A number of out of service transformers are located in other areas of Pier 70.

If a transformer is in active use, or in storage for reuse, it must be registered with the EPA. If the transformer is not in storage for reuse, the EPA presumes it is in storage for disposal. There is no requirement that a transformer being stored for disposal be registered. However, PCB transformers stored for disposal must be disposed [of] within one year after use is terminated, or by August 2003, whichever occurs later. The Port is required to maintain inventory and inspection logs documenting the disposition of all PCBs under its control. Inventory logs must include the total number of PCB transformers at a given facility, the total weight of PCBs in each transformer, and the serial number for each transformer. PCB transformers in storage for disposal must be inspected at least once every thirty days. The Port is in the process of inventorying all PCB transformers at Pier 70 not under control of SF Drydock for disposal.

In response to a Budget Analyst request to review the Port's PCB inventory, the Environmental, Health and Safety Assistant Deputy Director provided a table showing the location, transformer size, and status of 10 transformers. Preceding the table was the following explanatory material:

There are approximately 10 PCB containing transformers on Port property, all are located Pier 70. Of these ten transformers, four are currently being used by SF Drydock. The remaining six were recently used by SF Drydock but are now out of service. A scope of work is being developed to verify the existing PCB transformer inventory and to decommission all remaining PCB containing transformers at Pier 70.

The Environmental, Health and Safety section has provided the Budget Analyst with an inventory of PCB transformers that shows 10 PCB transformers located at Pier 70. Four of the PCB transformers are listed as being "In Use" by SF Drydock and six of the transformers as having been transferred to the Port by SF Drydock in February of 2004, and currently in an "Out of Service" status. According to the Environmental, Health and Safety section, the Port has a period of one year in which to dispose of the PCB transformers that were transferred to the Port by SF Drydock in February of 2004, and that the Port has initiated the process of doing so.

Environmental, Health and Safety Audit Evaluations

At the request of the Budget Analyst, the PUC's Bureau of Environmental Regulation and Management (BERM) conducted independent environmental and health/safety inspections of Port facilities on October 9, 2003 and on February 5, 2004. The October 9 inspection of the Port Maintenance facility at Pier 50, Shed D, was unannounced and revealed major Storm Water – Industrial Management and Health and Safety compliance deficiencies. The re-inspection of Pier 50D on February 5, 2004 revealed significant improvement. However, given the state of the Health and Safety program at Pier 50D prior to that inspection, continued diligence is required to ensure that the prior deficiencies do not re-occur. The inspection of February 5, 2004 included evaluations of Port facilities at Pier 80 and at Pier 90. Of particular concern is the condition of Pier 90, which is a staging area for the Pile Workers and as stated in the Inspector's evaluation, "Areas of the pier are very deteriorated and employees could fall through unguarded holes."

Summaries of the two inspections are provided below. The complete inspection reports, including detailed "Observations" and "Required Actions," have been provided to the Environmental, Health and Safety section.

Pier 50, Shed D (Pier 50D), Inspections – October 9, 2003

Industrial Storm Water Facility Inspection

The primary concerns, as stated in the PUC's report, "are significant areas of hazardous waste material accumulation from illegal dumping on Port property and outdoor storage of equipment leftover from shop maintenance activities."

Many of the observations noted by the Inspector were previously identified by the Port's Environmental, Health and Safety section in a June 23, 2003 inspection conducted by the Environmental, Health and Safety section. The fact that the deficiencies continue to exist highlights the need for Port management to place a higher priority on its Environmental, Health and Safety programs.

Health and Safety Issues: Maintenance Facility – Pier 50, Shed D

The health and safety inspection included a walk-through of the auto shop, main storage area/supply room, paint shop, dive/pile drivers' shop, carpentry shop, electrical shop, plumbing shop, welding shop, sheet metal shop, machine shop, ironworkers shop, laborers' supply room, pile drivers' storage room, and the outdoor dock and storage areas along the north side Shed D.

The Inspector made the following general observations that apply to many Maintenance Division shops:

- Housekeeping was poor in several shops.
- Access to electrical control panels was blocked in numerous locations throughout the building.
- Fire extinguishers were missing in numerous locations (where there were mounting brackets and/ or signs on the wall), or were sitting on the floor.
- Emergency eyewash/showers had no documentation indicating that they had been inspected and tested for the last six months.

These common safety problems should normally be identified by routine workplace inspections by line management.

The Inspector expressed specific concern about the hazardous manner in which materials are stored on top shelves in various locations throughout the Maintenance Division's storeroom. Exhibit 11.2 at the end of this audit section depicts copies of photographs showing the hazardous conditions.

The Inspector also expressed concerns about materials stored in the "mezzanine" areas above various shop offices. Materials stored in these mezzanines were located close to the edge, and were unsecured. The materials could easily be knocked off or fall, particularly during a seismic event. Further, the mezzanine areas lacked appropriate railings or other fall prevention, resulting in serious fall risk for employees accessing the storage areas.

Pier 50, Shed D, Pier 80, and Pier 90 (Corporate Yard) – February 5, 2004

The Port facilities inspected were Pier 50, Shed D, Pier 80, and Pier 90 (Corporate Yard Storage Area). As with the inspection of October 9, 2003, this inspection consisted of an evaluation of the Port's compliance with Storm Water - Industrial Management and Health and Safety regulation, but also included an evaluation of the Port's compliance with Hazardous Material and Hazardous Water regulations.

A major health and safety concern exists at the Port's Corporate Yard at Pier 90. As stated by the Inspector, "Areas of the pier are very deteriorated and employees could fall through unguarded holes."

Hazardous Material and Hazardous Waste

The Inspector found that in general, hazardous material storage and handling appeared to be in regulatory compliance and that most hazardous materials were stored in cabinets with appropriate labels. The Inspector did report findings of missing hazard identification signs, visible spills and other unidentified containers in a storage cabinet, and hazardous waste containers with no yellow hazardous waste labels attached. The hazardous waste labels are required to be filled out for each container so that a 90-day rule for storage of such containers can be monitored.

Industrial Storm Water Facility Re-inspection – Pier 50D

The Inspector reported that significant improvement in compliance with Industrial Storm Water regulations at Pier 50D had occurred since the October 9, 2003 inspection; however, there are still areas where the potential for negative storm water impacts can be reduced.

Industrial Storm Water Facility Inspection – Pier 90 (Corporate Yard) and Pier 80

Pier 90 is currently used as a material storage area and solid waste collection and transfer point. The pier is in poor condition with holes leading directly to the Bay visible all over the pier. As a result, storm water can run off the materials stored there and impact the Bay.

Pier 80 houses the Maintenance Division’s Crane Shop. However, the primary occupant of Pier 80 is the Marine Transit Corporation, a tenant. The interior on the Port’s Crane Shop was clean and orderly and had little potential for storm water pollution through proper practices and general shop activities.

Health and Safety Issues – Pier 50D and Pier 90 (Corporate Yard)

The Inspector reported that significant improvement in compliance with Health and Safety regulations at Pier 50D had occurred since the October 9, 2003 inspection. In addition to the reinspection of Pier 50D, Pier 80 and Pier 90 were also evaluated. Concerning Pier 90, as previously stated, the Health and Safety Inspector found that “Areas of the pier are very deteriorated and employees could fall through unguarded holes.”

Environmental, Health and Safety Issues as a Priority

Discussions with current and past members of the Environmental, Health and Safety staff reveal that environmental, health and safety issues are not given the priority that they deserve, in the opinion of those staff members. Based on evaluations of Health and Safety, Storm Water Pollution Prevention, and Hazardous Material/Hazardous Waste programs at selected Port sites, and with the responses of the Environmental, Health and Safety section to environmental, health and safety issues, the Budget Analyst concurs with the opinions of those staff members.

The Budget Analyst recommends that the Executive Director implement the following actions in order to enhance the effectiveness of Environmental, Health and Safety programs at the Port:

- As covered in the Strategic Planning and Organization section of this audit report, reassign the Environmental, Health and Safety section from the Engineering and Maintenance Division to Administrative Services.

- Develop a Port procedure ensuring that any new lease or lease renewal other than for office space requires the concurrence of the Environmental, Health and Safety section.
- Include Environmental, Health and Safety as a major factor in the performance appraisals of all managers and supervisors. Possible rated items could be number of injuries and adherence to required safety training.
- Obtain “courtesy” inspections of all Environmental, Health and Safety programs on a bi-annual basis. For example, inspections of the Port’s adherence to asbestos or to lead paint requirements could be requested from agencies responsible for enforcing those regulations.
- Re-institute the monthly inter-divisional coordination meetings, staffed by the Assistant Deputy Directors, to promote communication and coordination between Divisions. Require attendance by all Assistant Deputy Directors and require that minutes be taken and action items assigned.
- The Environmental, Health and Safety section reports that a major source of inefficiency for the section is a lack of clerical support. Therefore, we recommend that appropriate clerical staff be assigned to the Environmental, Health and Safety section from within existing Port clerical staff.

Conclusion

Based on discussions with current and past members of the Environmental, Health and Safety staff, evaluations of Health and Safety, Storm Water Pollution Prevention, and Hazardous Material/Hazardous Waste programs at selected Port sites, the responses of the Environmental, Health and Safety section to environmental, health and safety inquiries, the Budget Analyst has concluded that Environmental, Health and Safety programs and issues have not been given the priority that they deserve. In addition to specific Environmental, Health and Safety program recommendations, the Budget Analyst has made recommendations for enhancing Environmental, Health and Safety programs overall and reducing the Port's financial risk.

Recommendations

The Executive Director should, as a matter of the highest priority:

- 11.1 Ensure that the Port is in compliance with polychlorinated biphenyl (PCB) regulations.
- 11.2 Require Pacific Cement to comply with environmental regulations.
- 11.3 Ensure that remaining holes at Pier 90 are covered with metal plates and implement interim controls to restrict access to unsafe areas.

11.4 Ensure that health and safety hazards in the Pier 50D storeroom are corrected.

The Executive Director should:

11.5 Implement the recommendations included in this section of the report titled *Environmental, Health and Safety Issues*, including:

- (a) Reassigning the Environmental, Health and Safety section from the Engineering and Maintenance Division to the Administrative Services Division, as discussed in Section 1;
- (b) Developing a Port procedure ensuring that that any new lease or lease renewal other than for office space requires the concurrence of the Environmental, Health and Safety section;
- (c) Including Environmental, Health and Safety as a major factor in the performance appraisals of all managers and supervisors. Possible rated items could be number of injuries and adherence to required safety training;
- (d) Obtaining “courtesy” inspections of all Environmental, Health and Safety programs on a bi-annual basis.
- (e) Re-instituting the monthly inter-divisional coordination meetings, staffed by the Assistant Deputy Directors, to promote communication and coordination between Divisions, requiring attendance by all Assistant Deputy Directors, and requiring that minutes be taken and action items assigned; and
- (f) Assigning existing clerical staff to support the Environmental, Health and Safety section.

11.6 Ensure that all of the deficiencies recorded during the Environmental, Health and Safety evaluations of October 9, 2003 and February 5, 2004 are corrected.

11.7 Emphasize the importance of Environmental, Health and Safety programs and issues on a continuous basis.

Costs and Benefits

There would be no new direct costs associated with these recommendations, which can all be accomplished in-house without additional staff. The recommendation to assign clerical assistance to the Environmental, Health and Safety section can be accomplished within existing Port staff allocations. The benefit of implementing the recommendations would be significantly improved compliance of Port-operated facilities and Port tenant-occupied facilities with environmental regulations, and a significantly improved health and safety environment at the Port of San Francisco. A major benefit of ensuring that tenants comply with hazardous materials regulations would be the reduction or elimination of financial risk due to potential penalties and costs of remediation.



Photo 1 - Unsecured material storage on top rack, Main Storage Area/Supply room



Photo 2 - Unsecured material storage on top rack, Main Storage Area/Supply room