

Toxic times should be on truckers' minds



TruckSure

By Trevor Toohill

A chemical spill is probably the last thing you are thinking about right at the moment! But it shouldn't be.

As I write this article one truck is down a bank with its load of chemicals spewed across the road. Another appears to have had part of its load displaced and toxic dye has leaked out across a very busy Auckland suburban street – traffic chaos the least of the authorities worries.

Then there was one incident that did not even make the headlines but will cost the insurer the best part of \$350,000 in cleanup costs.

Let's have a little look at these three incidents and see where liability lies and determine what insurance needs to be in place to safeguard you, the trucking operator.

In the first instance the headline grabber in the New Zealand Herald was "Truckie rescued after 18-wheeler rolls".

Thankfully there were no major injuries and we are not even talking about the fact that it was a 4am Wednesday morning crash with tiredness or distraction perhaps a factor. Nor are we looking at the crash damage to the truck.

It is the load and the consequences of what happened to it that got my attention. According to the press release the truck was laden with pallets of liquids and aerosols. The police reported that nearby houses had to be evacuated because the truck had spilled its load of chemicals and liquids across the road.

Four fire crews attended the cleanup in full hazmat gear and roads were closed with diversions required.

This all has a cost. Who pays?

Pretty straightforward in this case – a crash had occurred and this automatically kicks in all sections of the **commercial motor policy. The only things you have to worry about are the sum insured sub limits on your policy.**

The fire crew get a special mention in the CMV policy and their cost is covered along with a limited amount of cover for clean-up in general. But if not specifically adjusted these policy sub limits are fairly low – maybe \$5,000 for the fire service and \$20,000 for cleanup.

Carriers Liability policies also have a certain limit on cleanup costs in respect to the load but even when added together it is likely to be short of the mark in a serious incident.

Urgent job

Ensure your broker looks at the sum insured sub limits covering the costs of cleanup and Section 2 liability on your policies! This is usually just a negotiation with the insurer and may not even result in any extra premium.

The second incident report - "Warning to Auckland drivers after chemical spill".

It was not clear what caused the spill as the truck was not involved in any accident. Around 20 litres of a toxic chemical dye had spilled out from the truck and covered a few hundred metres of road. Two Fire Service hazmat teams attended.

In this case no physical crash damage, although there will be some cost for possible dye damage to the truck and other goods carried. Same as previous example though is the **substantial cost of cleanup when the hazmat units get involved** and are engaged for lengthy periods of time.

Therefore same comment – check your policy sub limits and sums insured and make sure you have plenty of cover in reserve.

Harmless shipping containers

The final incident is a lot more complicated and serious. It involved an owner operator that transports shipping containers – also happens to be one of our TruckSure clients.

Normally you would think that carting containers is about the least dangerous and safest load to transport – but not necessarily!

Consider arriving at the shipper's yard to uplift a container. Swinglift in action with stabilisers extended and placed. Container secured on the truck. Retract stabilisers.

Here the problem begins – in the process of retraction one of the stabilisers came into contact with a full tank of a very highly toxic liquid chemical.

The tank was punctured and 900 litres of the liquid escaped into the yard and onto neighbouring properties, drains and waterways. A clean-up nightmare!

Hazmat, Envirowaste, Auckland Council Pollution units all kick into action and it was vital that our client, the shipper, TruckSure broker manager and the insurer all respond with urgency.

The effect of time is crucial and cooperation produced a pretty good result. 10 truckloads of sand later and the

problem were temporarily contained! That co-operation probably will mean that the insurer can look to reduce their first and worst case claim reserve from \$3,000,000 down to \$350,000!!! Still a pretty mind blowing amount and something that happened that I can bet the driver did not expect when he turned up for work that day.

So what happened insurance-wise and which policies responded to this catastrophic incident?

For a start the truck was not involved in an accident, therefore nothing under Section 1 of the CMV policy. Section 2 covers third party damage but usually needs the truck to be in operation to kick in. Public Liability excludes damage caused whilst operating a motor vehicle. So big loss lined up and decisions urgently required to determine which insurance policy responds to this claim.

Bearing in mind that sometimes there will be more than one insurer involved and they will be passing the buck if in any doubt, especially with a large pay-out looming. Insurance brokers must be aware of the various clauses and exclusions and leave no loopholes in coverage and in the various sub limits in sums insured.

In this case the Swinglift was in operation and not the vehicle. Therefore public liability was the policy that would respond to this claim. Additionally there will be OSH and Resource Management issues so the Statutory Liability policy will also get a bit of a workout!

The essential point

The point I am trying to make with this article is that not all transport claims involve a crash that simply means repairs to a truck and trailer. Most also involve cargo and liability issues. Various sections to insurance policies have sub limits on sums insured and conditions and exclusions.

Make sure you review these limitations regularly and that you have a good understanding as to how they can affect you and your operation in the event of any type of insured incident. **TS**

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