

Environmentally Exposed?

By Sjanine Tanner: Managing Director, Envirosure

ASIDE FROM THE ENVIRONMENTAL IMPACT, ARE CLIENTS AWARE OF THE FINANCIAL AND LEGAL IMPLICATIONS FOLLOWING AN ENVIRONMENTAL INCIDENT? IT IS OF UTMOST IMPORTANCE THAT THEY ARE INSURED AND ADVISED CORRECTLY.

Time is of the essence and every second counts in terms of pollution containment following an environmental incident. Immediate response is crucial as the cost of the claim rapidly escalates should the product migrate.

The clean-up costs and rehabilitation procedure are based on the environmental impact caused, which includes public health and proximity to sensitive receptors.

There is actively enforced legislation governing environmental incidents. In terms of Section 30 of the National Environmental Management Act (NEMA), the polluter is required to notify the authorities including national, provincial or municipal Emergency Services. An initial Alert Report also needs to be submitted to the Department of Environmental Affairs and within 14 days, the polluter must compile an Emergency Incident Report to be submitted to the environmental authorities.

Non-compliance with the NEMA Act has severe consequences, which include potential jail terms and fines that could run into the millions.

The department has the authority to issue directives, which can dictate the methodology and scope of work that must be undertaken throughout the clean-up and rehabilitation process. This could greatly affect the cost and the life cycle of the claim.

With 10 plus years of experience in claims management, we've noted that the cost of claim is significantly lower when partnering up with the



department from the get go as well as using the best response teams and various other experts that would be involved to ensure that the scope of work is followed and the clean-up is managed conclusively in terms of environmental exposures as well as legal compliance.

An additional risk that is not defined in the legislation is the potential reputational damages that could be suffered by the client following an environmental incident that is not handled correctly. Incorrect handling of the claims also has an impact on the client's contracts as most of the large petrochemical companies have very strict regulations as to how clean-ups are managed as various other parties could become liable in terms of the incident. Claims management must be as per their specifications in conjunction with the legislation. If incorrect claims management is noted, clients may lose their contracts. This has a knock-on effect which could lead to cancelling insurance policies, selling of vehicles and ultimately closing the business.

It is vital that brokers understand that there is a potential risk exposure to them too as clients could potentially be underinsured or inadequately insured altogether. We have seen over the years with the rising cost of claims that most policies that are in place do not have adequate limits of insurance and the brokers need to address this on

an ongoing basis. We at Envirosure recommend that brokers always add this to their record of advice. Failure to advise the client correctly could result in a potential PI claim against the broker. If total claims management does not form part of the insurance offering, the broker may have to assume the role of claims coordinator. Environmental claims management is highly complex and should be handled by a specialist.

Some things call for a specialist and Environmental Impairment Cover is definitely one of them. At Envirosure we recognised the importance of providing comprehensive cover through our Spill Protect Plan™ which takes the headache out of three key areas related to a spill: risk management, claims management, and insurance.

An industry-first, this product is a complete environmental impairment management solution designed to simplify and expedite all clean-up, legislative requirements and insurance claim aspects related to an environmental spill. Envirosure will assist with all compliance requirements including compiling of reports and handling of authorities' queries. The Spill Protect Plan™ also includes Risk Management to prevent incidents from happening in the first place, together with various planning, preparation and training initiatives for when they do occur.

Due to our recent merger with Spill Tech, the Spill Protect Plan™ ensures that clients enjoy all the benefits of best-in-class spill response - from guaranteed, rapid dispatch, arrival and clean-up to a national 24-hour call centre linked to ISO certified skilled responders. It also offers accurate incident record keeping ensuring compliance with NEMA's requirements.

An environmental incident is more than just an insurance claim, are your client's correctly insured and prepared? As a broker do you have the right insurance partner?