

Official Information Act Request

Requester's details

Date: 30 July 2021

Name: [REDACTED]

Job title: Reporter

Organisation: Radio New Zealand

Email: [REDACTED]@rnz.co.nz

Reference number: ENQ-41994-G9T8K2

Dear [REDACTED]

Thank you for your request received on 2 July 2021 for the following information:

Under EPA's new enforcement powers received under an amendment to the RMA on 1 July 2020, and from when it received those powers at first, till now –

1. How many times have councils been in touch asking for help – pls break down by quarter
2. How many times in total in discrete incidences or responding to discrete requests has EPA used any of these new powers.
3. A summary of what those incidences were including where, when and nature of them
4. The results of any EPA involvement including
 - a. peer reviewing their investigations
 - b. interviewing witnesses
 - c. Any other support for investigations into noncompliance
 - d. Any involvement in reporting actual noncompliance
 - e. Any input into response to noncompliance, including any enforcement interventions
5. Pls detail all and any enforcement interventions EPA has been involved in using or involving its new powers
6. If EPA has a running budget of what these activities have cost, pls provide it

In addition:

Pls release:

1. Any and all updates to the [Hazardous Substances Compliance System Findings Report 2019](#)
2. All and any documents and statements that EPA previously provided to Newsroom (or its agents) ahead of and related to, or referred to, in its report in 2020 - <https://www.newsroom.co.nz/2020/03/09/1074422/no-prosecutions-ever-from-environmental-protection-authority>

3. The last 12 months of data showing any and all EPA prosecutions with details of them

In addition:

Pls provide:

1. info updating NZ on any action – remediation, legal proceedings, cost recovery – taken this year re Sustainable Solvents and its site near Ruakaka
2. copies of minutes of the latest meeting(s) about this site with any or all of the following: MfE, Northland Regional Council, WorkSafe, Whangārei District Council, Crown Law
3. any testing results and any recommendations/advice arising from such investigations, re this site, or similar, EPA has or is aware of from the past six months including of groundwater, soil, air, surface water.

On 15 July 2021 we transferred the part of your request about Sustainable Solvents to Whangarei District Council.

The response to the first two parts of your request follows:

Compliance, monitoring and enforcement activity

The EPA's Compliance, Monitoring and Enforcement (CME) group carries out a wide range of compliance activities to protect people and the environment.

We have a targeted and proportionate approach to compliance, based on risk. We take into account the facts and evidence, extent or risk of harm, compliance history, likelihood of repeated non-compliance and the impact on the integrity of the regulatory system. Our response will be directed at preventing harm, rectifying the non-compliance, and ensuring any future non-compliant activity is prevented.

You can read more about the [EPA Regulatory Compliance Policy](#).

Resource Management Act Enforcement Powers

The EPA enforcement functions under the Resource Management Act 1991 (the Act) are set out here: EPA's RMA Enforcement Powers

The EPA has been in contact with councils to inform them of our role under the Act. We are continually working towards building stronger partnerships with local government to assist with building capability and providing support with compliance, monitoring and enforcement activities. A focus has been placed on educating councils about our role, how they can contact us and how we can assist them with their compliance and enforcement action.

As part of engagement and raising awareness of our role under the RMA the EPA has been involved in engagement activities with the Compliance and Enforcement Special Interest Group Conferences, educating groups of councils. We have also met with Taituarā (Local

Government Professionals Aotearoa) to discuss opportunities to engage with district and city councils.

Our powers complement those that councils already have. We also have the power to intervene and take direct action on a case-by-case basis.

1. How many times have councils been in touch asking for help – pls break down by quarter

The EPA has received three formal requests for assistance from councils. One request was received in the July - September 2020 quarter and the other two requests were received in the January - March 2021 quarter.

Since 1 July 2020 the EPA has engaged more than 30 times with councils on a more informal basis in relation to RMA enforcement matters.

2. How many times in total in discrete incidences or responding to discrete requests has EPA used any of these new powers.

The EPA has used its powers under section 343F(b) of the Act on three occasions since 1 July 2020.

3. A summary of what those incidences were including where, when and nature of them

In July 2020, Environment Southland requested that the EPA assist by undertaking a review of an investigation file and enforcement recommendation in relation to a wintering paddock. The paddock was owned by a councillor of the regional council. The EPA agreed with Environment Southland's finding that no offence had been committed. Environment Southland took no enforcement action against the landowner.

In February 2021, Christchurch City Council asked the EPA to review an investigation file and enforcement recommendation in relation to unauthorised earthworks alleged to have been undertaken by a city councillor. The earthworks were undertaken to alleviate surface flooding and were completed without the necessary resource consent. As a result, the Christchurch City Council issued an infringement notice to the councillor.

The Otago Regional Council began investigating an incident after a contractor dumped building materials into the Clutha River in March 2021. The Council requested the EPA undertake the investigation when it was identified council officers may have provided advice. We interviewed witnesses on behalf of the Council. In July 2021 the Council issued infringement notices and educational advice to the parties involved. The building materials were cleaned up by the offending party.

4. The results of any EPA involvement including

a. peer reviewing their investigations

The EPA has peer reviewed two investigations on behalf of councils where the councils were investigating actions of their own councillors.

b. interviewing witnesses

The EPA has interviewed witnesses in relation to one investigation.

c. Any other support for investigations into noncompliance

The EPA coordinated the gathering of information from North Island regional councils in relation to unauthorised tyre dumping.

The EPA undertook some preliminary investigations into alleged unauthorised dumping of waste sourced from Auckland to the Puke Coal landfill site in Waikato.

d. Any involvement in reporting actual noncompliance

If we are made aware of concerns about potential RMA breaches, we notify councils immediately. In the instances to date the councils notified have already been aware of the concerns and are taking action to address them. We then update the notifier of what action is being taken.

e. Any input into response to noncompliance, including any enforcement interventions

We provided recommendations on potential interventions to the councils in the three instances where we were asked to provide assistance.

5. Pls detail all and any enforcement interventions EPA has been involved in using or involving its new powers

The EPA has not exercised its intervention powers under section 343F(c) of the Act.

6. If EPA has a running budget of what these activities have cost, pls provide it

Personnel and support costs are a part of the EPA's core functions and are not tracked in association with RMA enforcement activities.

Hazardous Substances Compliance

7. Any and all updates to the [Hazardous Substances Compliance System Findings Report 2019](#)

There have been no updates to the report. Since the Technical Working Group finalised its report on 30 June 2019, the EPA has been working to improve aspects of the hazardous substances compliance system. This activity has included:

- The EPA has centralised all compliance, monitoring, and enforcement activity in one group.
- The EPA has implemented the Globally Harmonised System of Classification and Labelling of Chemicals in New Zealand, updating NZ's hazard classification system to align globally.
- We are implementing the International Uniform Chemical Information Database (IUCLID). IUCLID was developed by the European Chemicals Agency and delivers to New Zealand a cloud-based, internationally aligned system with standard classifications that is compatible with other jurisdictions we partner with (Australia, the EU, UK, USA) and major chemical manufacturers.
- The EPA has completed the first phase of its chemical map project and is in the process of considering the next steps and how this might connect into our new intelligence function.
- We are working with the Ministry for the Environment on proposed changes to the Hazardous Substances and New Organisms Act (1996) (HSNO). The Hazardous Substances and New Organisms (Hazardous Substances Assessments) Amendment Bill aims to improve the assessment and reassessment of hazardous substances. When enacted, it will enable the EPA to make better use of information from international regulators, make other improvements to the reassessment process, and make technical amendments.
- Infringement regulations are being developed to enable a graduated response to offending which will be particularly helpful when responding to low-level offences.

8. All and any documents and statements that EPA previously provided to Newsroom (or its agents) ahead of and related to, or referred to, in its report in 2020 - <https://www.newsroom.co.nz/2020/03/09/1074422/no-prosecutions-ever-from-environmental-protection-authority>

The documents you have requested are attached in a PDF file.

Some information has been withheld from the documents under section 9(2)(a) of the Official Information Act 1982 (OIA) to protect the privacy of natural persons. I do not consider that the withholding of the information is outweighed by other considerations which render it desirable, in the public interest, to make that information available.

9. The last 12 months of data showing all EPA prosecutions with details of them

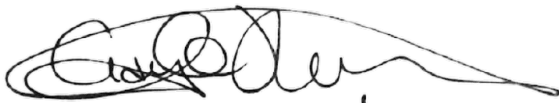
There have been no prosecutions. As noted previously, prosecutions are undertaken when proportionate to the circumstances and in line with the guidance from the Solicitor-General.

You have the right to seek an investigation and review by the Ombudsman of this decision. You can contact the Ombudsman on 0800 802 602, or by email at info@ombudsman.parliament.nz

If you have any further queries, please do not hesitate to contact us via ministerials@epa.govt.nz

We may publish your request and our response on our website, www.epa.govt.nz. We make OIA responses available so others can read more about the work we do and the questions we are asked. Any information that might identify you will be removed to protect your privacy.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Gayle Holmes', with a long horizontal flourish extending to the right.

Gayle Holmes
General Manager,
Compliance, Monitoring and Enforcement