

# Official Information Act Request

## Requester's details

**Date:** 21 December 2021

**Name:** David Haynes

**Email:** [fyi-request-17724-2c0881bb@requests.fyi.org.nz](mailto:fyi-request-17724-2c0881bb@requests.fyi.org.nz)

**Reference number:** ENQ-43042-F8L1M0

Dear David

Thank you for your request received on 26 November 2021 for the following information:

“All rules and regulations which allow or prohibit the spraying of Glyphosate herbicide directly into or alongside freshwater bodies in New Zealand and any penalties that may apply for derogation from these.”

## Background

There are currently 89 different approvals for formulations of glyphosate-containing substances in New Zealand.

## Rules and regulations

Clause 52 of the *Consolidated Hazardous Substances Hazardous Property Controls Notice 2017* (the notice) states that agrichemicals that are hazardous to the aquatic environment must not be applied to water. Water in the context of the notice includes freshwater, coastal water, and geothermal water.

This clause applies to 39 of the approvals of glyphosate containing substances in New Zealand, meaning they cannot be used as aquatic herbicides.

Some hazardous substances are intended to be used as aquatic herbicides. In these circumstances, the requirements of clause 52 of the notice do not apply. In the case of glyphosate-containing substances in New Zealand, 50<sup>1</sup> of the approvals allow for the use of

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<sup>1</sup> One approval currently has controls that allow use in water, another approval has controls that do not allow it to be used in water, both were technical mistakes made during the change in hazard classification systems and are being reversed via a section 67A amendment under the Hazardous Substances and New Organisms Act 1996.

the formulation in water. When clause 52 of the notice does not apply, clauses 62, 63 and 64 are invoked, requiring the person applying the substance to have specific qualifications.

The link to the notice is below:

[https://www.epa.govt.nz/assets/Uploads/Documents/Hazardous-Substances/GHS2/Consolidated\\_Hazardous\\_Substances\\_Hazardous\\_Property\\_Controls\\_Notice\\_2017.pdf](https://www.epa.govt.nz/assets/Uploads/Documents/Hazardous-Substances/GHS2/Consolidated_Hazardous_Substances_Hazardous_Property_Controls_Notice_2017.pdf)

In addition to following the controls as assigned and explained in the notice, users need to follow any obligations under the [Health and Safety at Work Act 2015](#) and [Health and Safety at Work \(Hazardous Substances\) Regulations 2017](#). WorkSafe New Zealand is responsible for enforcing obligations under the above.

Users also need to be aware of, and comply with, any requirements imposed through local or regional plans.

The full controls of approved hazardous substances can be found using the database linked below, it is best searched with the HSR number (EPA approval number) of a product which can be found on the product or its safety data sheet:

<https://www.epa.govt.nz/database-search/approved-hazardous-substances-with-controls/>

## Penalties

Offences under the Hazardous Substances and New Organisms Act 1996 are listed under section 109, and the penalties are listed under section 114.

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](mailto:info@ombudsman.parliament.nz)

If you have any further queries, please do not hesitate to contact us via:

[ministerials@epa.govt.nz](mailto:ministerials@epa.govt.nz)

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We may publish your request and our response on our website, [www.epa.govt.nz](http://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 blue ink that reads "Chris Hill". The signature is written in a cursive, flowing style.

Dr Christopher Hill

**General Manager, Hazardous Substances and New Organisms**